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## BOARD OF PUBLIC UTILITIES

### Regulations of Cable Television

Proposed Readoption with Amendments: N.J.A.C. 14:18

Authorized by: Celeste M. Fasone, Director, Office of Cable Television (with approval of the Board of Public Utilities, Jeanne M. Fox, President; Frederick F. Butler, Commissioner; Carol J. Murphy, Commissioner, Connie O. Hughes, Commissioner and Jack Alter, Commissioner)

Authority: N.J.S.A. 48:5A-10

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: CX02040265

Proposal Number: PRN 2002-\_\_\_\_\_

A public hearing concerning the proposal will be held on Wednesday, February 19, 2003 at 10:00 A.M. at:

Board of Public Utilities  
Hearing Room, 8th Floor  
Two Gateway Center  
Newark, NJ 07102

Submit written comments by March 6, 2003 to:

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Celeste M. Fasone, Director  
Office of Cable Television  
Two Gateway Center  
Newark, NJ 07102

The agency proposal follows:

### **Summary**

Pursuant to the New Jersey Cable Television Act (Cable Television Act), specifically N.J.S.A. 48:5A-9 and -10, the Director of the Office of Cable Television (OCTV), with approval of the Board of Public Utilities (Board) is empowered to promulgate rules and regulations necessary to carry out the purposes of the act. N.J.A.C. 14:18 contains the substantive rules of the Board governing cable television companies. These rules are necessary to ensure orderly regulation of the cable television industry in the State of New Jersey.

Pursuant to the sunset provisions of Executive Order No. 66 (1978) (now codified as N.J.S.A. 1:30-6.4), N.J.A.C. 14:18, Regulations of Cable Television, is scheduled to expire on June 30, 2003. The Board has reviewed the rules and determined that they are necessary, reasonable and proper for the purpose for which they were originally promulgated and amended.

On March 12, 2002, the Office of Cable Television (OCTV) informally solicited interested parties for suggestions for changes in the substantive rules. Comments and responses relevant to substantive rules are noted below in the Summary of the provisions.

The Board proposes that N.J.A.C. 14:18 be readopted with certain

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amendments. These amendments fall into the categories of: (1) modifications to conform to changes in State and Federal law since 2000, when the subject rules last were re-adopted; (2) modification and/or deletion of rules that have become obsolete; and (3) modifications to reflect changes in the cable television industry, generally.

The Board proposes to sunset the rules proposed herein on June 30, 2006, in accordance with N.J.S.A. 1:30-6.4. The Board believes that an abbreviated length to sunset is an appropriate reaction to concerns raised by the cable television industry that due to the advent of competition in the industry and rapid changes in technology, the rules could become overly burdensome or unnecessary within a normal sunset period of five years. The Board agrees that a truncated sunset for these rules is appropriate. Therefore, the Board proposes a three-year sunset, June 30, 2006, in attempt to address those concerns. This will allow the Board to review its rules and determine if significant competition exists and whether it would be appropriate to change its rules accordingly.

Several municipalities submitted informal comments requesting that the Board regulate rates and programming of the state's cable television operators. Pursuant to federal law, the Board is not permitted to regulate any rate other than the basic tier rate and equipment needed to access basic cable television service, if applicable, and cannot regulate program offerings under Federal law at all. Therefore, the municipalities' suggestions are outside the scope of the rules in review here and are not addressed further in this rulemaking.

The substantive provisions of the rules proposed for readoption and amendment by the Board are summarized as follows:

N.J.A.C. 14:18-1.1 pertains to the scope of the rules.

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N.J.A.C. 14:18-1.2 defines certain words and terms utilized in this chapter. The New Jersey Cable Telecommunications Association (NJCTA) stated, in its informal comments, that the historic meaning of certain terms in the rules are not appropriate in today's marketplace where convergence increases the number of unregulated services and competition drives business decisions. The NJCTA proposed changing references of "subscribers" to "customers" and "rates" to "prices." The Board agrees that the word "subscriber" is outdated and that the phrase "customer" is more appropriate and therefore, proposed to replace the term "subscriber" with the term "customer" throughout the rules. However, the Board believes that the word "rates" is still an appropriate term as it is contained within the Cable Television Act (N.J.S.A. 48:5A-1 et seq.) and on all forms used by the OCTV. Therefore, the Board declines to change the word "rates" to "prices."

The Division of Ratepayer Advocate ("DRA"), in its informal comments, recommended that the Board amend the definition of "outage" to include a definition of "substandard service", such as that used by the Connecticut Department of Public Utility Control (CT DPUC). The CT DPUC rules state that the definition of "substandard service" is: "a subscriber's loss of clear picture or clear sound on one or more CATV basic or premium channels to which the subscriber subscribes, the loss of which is caused by the failure of equipment owned or controlled by the CATV operator or by the negligence of said operator, or service which violates the Federal Communications Commission's (FCC) Rules and Regulations for Cable Television Service: Technical Standards 47 C.F.R., Part 76, Sec. 76.605 et seq., as hereafter amended." The Board has proposed to modify its rule regarding outage credits, N.J.A.C. 14:18-3.15 (see Summary below.) The Board believes that it is necessary to have the definition of outage as clear and unambiguous as possible. The practicality of following up on and enforcing "substandard service" on a case by case basis on each individual channel problem would be extremely burdensome to

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the state's cable television operators and to the OCTV. Therefore, the Board believes it is appropriate to leave the definition as is.

The Board proposes to add several definitions to conform to federal law and the several provisions of 47 C.F.R. Part 76 that it has proposed to incorporate herein. These definitions are: "cable home wiring;" "demarcation point;" "MDU;" "MVPD;" "normal business hours;" "normal operating conditions;" and "physically inaccessible."

The Board proposes to add two definitions to clarify a section of the rules: N.J.A.C. 14:18-3.15. The two definitions proposed are: "trial service" and "promotional service." This change is in response to a recommendation made by the NJCTA in its informal comments, where they stated that the difference between trial services and promotional services needs to be clarified to improve compliance by the cable television companies. The Board agrees.

The Board proposes to add a definition for the term "component". In the proposed rulemaking, as detailed in the Summary below, section 3.5 is proposed to be amended to require that a cable television operator list all of the components of its service packages and the rate for each component. The term "component" is defined as any individually offered service or piece of equipment. This is to differentiate from the actual channels provided within each component.

N.J.A.C. 14:18-2.1 pertains to how cable television companies must construct plant. In its informal comments, the Township of East Brunswick recommended modification of 14:18-2.1 to add a section on how cable television companies restore pavement, street surfaces, sidewalks, driveways and other surfaces of natural topography. The Board believes that its rules regarding construction and restoration in the public rights-of-way are adequate. The language

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suggested by the Township of East Brunswick is more appropriate for a municipal consent ordinance, reinforcing the police powers of the state's municipalities.

N.J.A.C. 14:18-2.2 requires cable television companies to inspect work performed by contractors on their behalf.

N.J.A.C. 14:18-2.3 pertains to how cable television companies must construct plant in existing public utility rights-of-way.

N.J.A.C. 14:18-2.4 pertains to the identification of property, buildings and structure of cable television companies.

N.J.A.C. 14:18-2.5 pertains to the identification of property, poles or structures supporting or connecting wires or cables of cable television companies.

N.J.A.C. 14:18-2.6 pertains to the maintenance of plant, equipment and facilities by cable television companies.

N.J.A.C. 14:18-2.7 requires cable television companies to inspect their property at sufficiently frequent intervals to ensure proper operating conditions.

N.J.A.C. 14:18-2.8 pertains to construction work near cable television facilities.

N.J.A.C. 14:18-2.9 pertains to the calculation of pole attachment rent where the Board must determine the appropriate rental rate. The Board proposes to add the phrase "third party attachers" to the paragraph immediately preceding the pole attachment rent formula to clarify, as had been done in the formula itself, that the provision applies equally to the calculation of cable television third party attachment

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rents. In the last rulemaking, the formula itself was updated to recognize that in a competitive environment other third parties could be parties to a pole attachment agreement and clarify that all such attachments should be treated the same for rental calculation purposes.

N.J.A.C. 14:18-2.10 pertains to pole attachment rate changes and disputes. The Board proposes to add a reference to conduit rental rates to this section so that parties to duct and conduit rental agreements can, like parties to a pole attachment agreement, petition the Board for resolution in the event of a dispute. When there is a conduit rental agreement or dispute a potential user of the facility would negotiate and pay for the use of one or more ducts within a given conduit or groups of conduit. The proposed amendment modifies the current rule to allow parties to a pole attachment, conduit or duct rental agreement to file a petition with the Board to resolve their dispute. The formulas outlined in N.J.A.C. 14:18-2.9 and N.J.A.C. 14:18-2.11 along with requirements of N.J.A.C. 14:18-2.12 would be used to evaluate the parties' position relative to the dispute.

The Board proposes a new section N.J.A.C. 14:18-2.11, pertaining to the calculation of duct and conduit rent. In the absence of a formula that predates Federal action in this area, the Board proposes to adopt the Federal Communications Commission (FCC) formula found at 47 C.F.R. § 1.1409, with the exception of a term of art, used in these rules, but not in the Federal rules: "cable" is "cable television."

The Board proposes a new section N.J.A.C. 14:18-2.12, concerning pole, conduit, duct or right-of-way agreements to assure that an affiliate, subsidiary or associate company of a cable television or telecommunications company would be liable for the services that the affiliate, subsidiary or associate company receives by virtue of their occupation of the right-of-way. A second provision in this section

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would assure that each party that benefits for a modification of pole, conduit, duct or right-of-way facility share in the cost of the modification directly in proportion to the benefit received. These provisions directly mirror the FCC requirements found at 47 C.F.R. § 1.1416 and assure that all users of the public right-of-way, whether affiliated or otherwise connected to an incumbent cable television or telecommunications company share proportionately in its costs, with the exception of a terms of art, used in these rules, but not in the FCC rules: "cable" is "cable television".

Subchapter 3 pertains to customer rights, in general. In its informal comments, the Borough of Chatham suggested that the OCTV establish minimum customer service standards regarding the unregulated portion of the cable television companies' infrastructures, specifically with regard to provision of Internet access via cable modem. The Borough believes that regulation of this service is in the public interest. However, the FCC has decided that the provision of Internet via cable modem is an "interstate informational service" and issued a notice of proposed rulemaking to determine how such a service could be regulated. The FCC's initial findings were that states could not regulate this service. However, if and when the FCC allows the Board to regulate this service, the Board will propose a separate rulemaking to address this issue.

N.J.A.C. 14:18-3.1 pertains to the scope of the rules regarding customer rights.

N.J.A.C. 14:18-3.2 pertains to requests for service by customers and how cable television companies must treat those requests. The Board proposes to add two new subsections to this rule: (e) and (f). The proposed amendments provide that: in (e), a cable television company may not refuse to connect a customer if directed to do so by the OCTV unless the cable television company can prove that

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such connection would present a hazard to life, property or the physical integrity of the cable television system and in (f) if a cable television operator does refuse to connect a subscriber, the subscriber may appeal that decision to the OCTV for adjudication. The proposed amendments directly address prior refusals by certain cable television operators to connect applicants for service on the basis that a prior tenant or family member had a delinquent balance. The credit-worthiness or lack thereof of a family member cannot enter into a determination of whether or not to extend service. In the case where a delinquent customer is located at the same address where service is requested, the cable television company has the means at its disposal to pursue collection of due amounts from that individual, which may include reports to credit reporting companies that could ultimately affect the person's ability to obtain credit, as well as other legal remedies. However, the cable television company may not refuse to provide service to a potential customer as a means to collect the bill on the delinquent account. Similarly, the cable television operator may not refuse to provide service to a potential customer just because the previous owner or tenant failed to pay a bill, but may request a deposit to insure credit. The delinquency may not enter into the decision to request a deposit or in setting its amount, which is prescribed by N.J.A.C. 14:18-4.6, Deposits to insure credit. However, it has been the Board Staff's experience that many cable television systems shy away from requesting and maintaining deposits on problem accounts. The Board believes that a cable television company's failure to employ the remedies available to it under the law does not justify a denial of service and therefore, has proposed the two amendments to this rule.

N.J.A.C. 14:18-3.3 pertains to customer information required to be furnished by the cable television companies. The DRA, in its informal comments, recommended that the Board add a provision to this rule requiring a cable television operator to provide information to new customers regarding how to file a complaint with the OCTV or the municipality, whomever is the complaint officer for the

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municipality. The Board believes that its current rules regarding what information the cable television operator must provide new and existing customers (found at N.J.A.C. 14:18-3.3, 3.4, 3.7 and 3.18) is sufficient. In addition, while cable television operators are only required to provide notice of the complaint officer for the municipality four times a year, most cable television operators place this notice on their bills each month. Therefore, the Board declines to make this modification.

The NJCTA, in its informal comments, stated that most commercial customers receive service under the terms of a contract. The NJCTA proposed revising the customer information requirement in subsection (d) to apply only to residential customers. Furthermore, the NJCTA contended that cable television companies provide rate cards to customers that by OCTV letter directive must match tariffs exactly. The NJCTA stated that preparing tariffs is administratively burdensome and that rate cards are easy to read, include a channel line up and rates for non-cable television services, and, because of how they are prepared, are less costly to mail to customers than a tariff. The NJCTA proposes revising the requirement in section (b) to provide that customers be sent a rate card with applicable prices, terms, and conditions instead of a tariff. The Board and the NJCTA, during informal discussion, determined that introducing a standardized tariff would help to eliminate this redundancy. A separate rate card could be provided to commercial enterprises seeking service. However, the Board requested that the cable television industry submit a proposal for amendment. The NJCTA did not provide the Board with a proposal. Therefore, at this time, the Board does not propose to amend this section.

N.J.A.C. 14:18-3.4 requires cable television companies to provide copies of current tariffs to customers upon request and post the tariff at each of its customer walk-in centers. The NJCTA, in its informal comments, stated that physical plant in each customer walk-in center does not always permit "posting" of a tariff in a

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location convenient to customers. In addition, customers rarely rely on posted tariffs as a source of information. The NJCTA contended that notice of availability of prices, terms and conditions of service should be sufficient to meet the intent of the current rule. The NJCTA proposed revising subsection (b) to permit cable television companies to provide an obviously noticeable statement indicating that applicable prices, terms, and conditions are available to customers on request. The Board agrees and proposes to change this provision to state that a prominent notice be posted that the tariff is available for inspection in a specified location in the public area of the cable television company's office location.

N.J.A.C. 14:18-3.5 pertains to how cable television companies must provide outage credits to customers. The Board proposes to modify paragraphs (a)1 and 3, and (b)1 and 2 to require that outage credits will be provided for outages that are more than three hours instead of the current six hours and to require that cable television operators issue an automatic credit for outages within their reasonable control that last three hours or more hours and affect 10 or more customers. The Board further proposes to amend the rule to require that a cable television company requesting a waiver to relieve it of the requirement to provide an outage credit must clearly demonstrate that such a request would cause a hardship.

According to statistics filed by cable television operators and maintained by the OCTV concerning reportable outages, there were 3,675 reportable outages in New Jersey between the years of 1999 and 2001. There were 991 reportable outages in 1999; 821 reportable outages in 2000; and 1,863 reportable outages in 2001. 67 percent of those outages lasted less than three hours; increasing from 52 percent in 1999 to 77 percent in 2001.

These statistics show that while the yearly total of outages has increased (991 in 1999, 1,863 in 2001), the duration and severity of outages continue to

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diminish. However, statistics show that from 1999 through 2001, outages that last between three and five hours still represent a significant number of outages (approximately 842 outages or 23 percent). The Board believes that three to five hours of lost service could represent a sizable portion of a customer's viewing day and therefore, believes that the proposed amendment to the rule is appropriate. The Board notes that the cable television operators have represented that plant reliability has increased and therefore the cable television industry should not object to any tightening of the rules related to plant failure.

N.J.A.C. 14:18-3.6 requires that customer phone calls must be answered 24 hours a day.

N.J.A.C. 14:18-3.7 pertains to bills for service and the required information that must be included. In its informal comments, the DRA recommended that the Board require cable television operators to provide, if applicable, a web site on each bill, and, if applicable, identify the methods of bill payment, including phone payment, electronic payment, and in-person payment. The Board believes that the billing detail requested in the rules proposed for adoption herein are much more important to the customer than the methods of payment, which are in the cable television company's best interest to provide to the customer. Therefore, we do not propose this amendment.

The DRA recommended that the Board require, rather than allow, cable television operators to provide a copy of a sample bill upon the introduction of a new billing format. The Board notes that the rule requires a cable television operator to supply a sample copy of its bill upon introduction of a new billing format. The rule also provides that the cable television operator may submit a sample copy of the bill to the OCTV prior to its introduction, if it wishes the OCTV to review and approve it. The Board believes that the current provisions of the rule meet the DRA's

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concerns.

The NJCTA, in its informal comments, stated that the OCTV receives copies of cable television companies' bills from customers as it assists in resolving customer inquiries. Therefore, the NJCTA proposed revising subsection (e) to require companies to provide customer bills only upon request of the OCTV. The Board believes it is necessary to receive sample copies of customer bills in order to understand a company's billing practices, to determine if all required information is on the bill, and to assist customers that call the OCTV in deciphering bills. Upon review of the comments, the Board does not believe that discontinuing this provision serves the public interest.

The Board also proposes to add a paragraph, (a)3, and renumber the remaining provisions, to require that cable television operators identify the components of each service package and the rate for each component. In informal discussion, the NJCTA objected to this provision stating that package rates do not always correspond to individual tier rates published in tariffs because a discount may be provided for subscribing to a higher level of service. The Board notes the NJCTA's position, but also notes that in constructing package plan discounts, cable television operators have historically discounted the cost of non-regulated services and/or tiers of service that are part of the package. The Board believes that a cable television operator could provide the individual rates for each component and then provide that a percentage or amount of discount is offered by taking the service package and be in compliance with this rule. A cable television operator's customer service responsibilities, its on-going requirement to provide its customers with sufficient information where multiple rate schedules are available to select the rate schedule that best meets the customer's individual needs, and advance notice of any changes are the same whether or not a particular service is rate regulated. The OCTV's records indicate that from 1997 to present, billing complaints represent

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the number one complaint category of calls and letters filed with the OCTV; from 1990 to 1996, billing was within the top three categories of complaint. This illustrates a need to provide greater information to the customer. Therefore, the Board believes the public interest requires that a cable television operator fully disclose the cost of service packages and their various components in both the filed tariff and on customer bills.

N.J.A.C. 14:18-3.8 pertains to the method of billing customers. The Board proposes to add a new subsection (d) to this provision, requiring that cable television operators that electronically or otherwise disconnect a customer provide a prorated refund of charges from the date of the disconnect. The Board has proposed this amendment due to the practice of some cable television operators who electronically disconnect all or some of a customer's services and continue to charge the customer for all services prior to full, physical disconnection. The Board wishes to ensure that the customer receives any money or credit due for partial month of service unused or for services not provided due to electronic curtailment.

N.J.A.C. 14:18-3.9 pertains to the due date of payment and notice of discontinuance. The Board proposes to amend subsection (a) to provide for a 15 day due date for payments from the start of the billing cycle. The current rule states that the due date for payment of the bill must be 15 days from the date of the bill. However, since most cable television companies utilize bulk mailing and do not postmark their bills, the cable television companies very often cannot prove that customers have been afforded the required 15-day period to remit payment before collection or service curtailment is employed. Therefore, in order to eliminate uncertainty inherent in the current practice, the Board proposes to determine the due date as 15 days from the start of the billing cycle.

The Board also proposes to add a new subsection, (d), and renumber the

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remaining subsections, providing that if a cable television operator issues a notice of disconnection to a customer, it must act upon that notice or provide a new notice.

The NJCTA objected to this requirement because they felt it erased its “bargaining chip” with the customer. The NJCTA contended that negotiating bills with customers resulted in retaining the customer and a requirement to issue a new disconnection notice would result in increased costs. The Board believes that if the cable television operator negotiates with the customer to accept a lower amount than that owed to keep the customer connected or to accept a payment plan, it is entering a contract with the customer that changes the general terms of service to that customer, which usually includes postponement of action to suspend service. Therefore, as a new contract, any breach thereof would require notice of that breach, that is, a new notice of disconnection. Furthermore, the Board is aware, through complaints it receives, of instances where cable television operators tender notice of disconnection to customers, but fail to act upon them until well after the time specified within the notice, sometimes months later. Such delay creates a reasonable expectation on behalf of the customer that service would continue uninterrupted since the time for action under the notice has passed. Therefore, a further notice to alert the customer of the cable television operator’s renewed intention to suspend service is in order.

N.J.A.C. 14:18-3.10 pertains to the basis for restoration of discontinued services. The NJCTA, in its informal comments, stated that cable television theft adds significant costs for customers and that under the current interpretation of the rules, a household of adults could repeatedly transfer service with no intention of paying. The NJCTA proposed to modify this provision to state that cable television companies be permitted to refuse service to a delinquent household. The Cable Television Act provides that a cable television company may not deny service to any building or premises due to an unpaid bill of a previous tenant, unless the actual person applying for service is in arrears to such cable television company, N.J.S.A.

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48:5A-39c. Where an applicant's credit worthiness is at issue, the Board's current rules at N.J.A.C. 14:18-4.6, Deposits to insure credit, provides the cable television operator with the means to protect its interest. In addition, the cable television company has the right to seek legal recourse against persons who are delinquent, which may include reports to credit reporting companies that could ultimately affect the person's ability to obtain credit, or other legal remedies, including a charge for a late fee. Therefore, the Board declines to modify this provision.

N.J.A.C. 14:18-3.11 pertains to disputes regarding bills and requires that cable television companies shall not disconnect a customer on the basis of a disputed bill. The DRA, in its informal comments, recommended that the Board clarify that it is the cable television customer who is responsible for notifying the OCTV of any contested billing dispute. The Board believes that while this is the intended course of action, such a modification would make it clearer to all parties concerned and therefore proposes to make the change to state that the customer is responsible for notifying the OCTV of contested billing disputes.

N.J.A.C. 14:18-3.12 pertains to service call scheduling. The Board proposes to add language to subsection (a) to require that a cable television operator provide a four-hour window for scheduling of appointments to the customer's home. The DRA, in its informal comments, recommended that the Board revise this rule to require cable television operators to provide notice as soon as possible in the case of a missed appointment. The Board, as part of its proposal, has incorporated provisions of the FCC customer service standards to the extent that they exceed the Board's current rules or address areas not covered by the current rules. The Board proposes to amend to conform to FCC rules as follows: subsection (b) is amended to require that a missed appointment be rescheduled as necessary within 24 hours or at a time that is convenient to the customer; subsection (c) disallows the cancellation of an appointment with a

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customer after the close of business on the business day prior to a scheduled appointment under normal operating conditions. The Board believes that the proposed rule modifications provide for additional customer protection beyond that sought by the DRA and are appropriate to be proposed.

N.J.A.C. 14:18-3.13 requires cable television companies to promptly restore service interruptions and outages and contains specific requirements for restoration.

N.J.A.C. 14:18-3.14 requires that cable television companies must offer special equipment, parental locks and devices for the hearing impaired, upon request of the customer. The DRA, in its informal comments, recommended that the Board amend this rule to provide that a cable television operator may not charge the cost of overhead to the customer purchasing specialized equipment. The Board believes that there is sufficient reason to believe, as the DRA suggests, that overhead costs are, for cable television companies utilizing the benchmark rate method, already recovered in programming service rates. Under the FCC's benchmark rules, and in its decisions on this issue, the FCC has clearly stated that costs not initially unbundled from programming service rates at the time a cable television operator unbundled its rates into discrete categories, separating equipment and installation from its programming services, are deemed to be recovered as part of the cable television operator's programming service rates. Separate recovery of such costs would, absent a corresponding reduction in programming service rates, amount to a double recovery of these costs. The Board, therefore, supports the DRA's suggestion and proposes to remove the overhead recovery reference in this section. The Board further notes that with the advances in customer equipment technology, many newer television sets including closed captioning and channel security features lessening the need in many cases for the cable television operator to provide the equipment.

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N.J.A.C. 14:18-3.15 pertains to trial services taken by customers. The NJCTA, in its informal comments, asked that the Board clarify the difference between trial services and promotional services to improve compliance by the cable television companies. The NJCTA requested that the Board propose to define "trial service" as any newly launched cable-related technology and define "promotional service" to programming that is provided on a "preview" basis by programmers. The Board agrees and proposes to modify this provision to outline the cable television operator's rights and responsibilities regarding both "trial service" and "promotional service" and has proposed the appropriate definitions as outlined in the Summary above.

In addition, the NJCTA states, because trial services are experimental and deployment delays are common, it may be impossible to provide 30-day notice to the OCTV. The NJCTA proposed that notice to the OCTV required by subsection (b) be made simultaneously with the launch of trial services. The Board notes the NJCTA's position, but also notes that since the planning and deployment of a service trial involves a significant amount of planning on the part of the cable television operator, there should be ample opportunity for the operator to pinpoint the scheduling of a trial to meet the current 30-day deadline. In addition, the Board proposes to modify the rule governing the availability of such information, to address the NJCTA's concerns that service trials contain sensitive information, such as details of the new technology and marketing to specific areas. The Board proposes to require that information on trial services be available for review by OCTV staff, upon request. The Board believes that the proposed change should eliminate some of the perceived harm to the cable television industry in providing advanced notice of service trial. The Board does not believe any further changes to this section are warranted.

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N.J.A.C. 14:18-3.16 requires specific notice of rate changes. The NJCTA contended, in its informal comments, that due to centralization, promotional activity files are often kept off-site. The NJCTA proposed that promotional files required to be kept under paragraph (a)3 should be available for inspection by the OCTV or the public upon request. The Board notes the NJCTA's position, but also notes that the requirement that a public file for promotional offerings be maintained on site was designed to permit the cable television operator relief of the 30-day notice and tariff change provisions for limited time promotions, while affording the rate paying public necessary information about the promotion. If the public files are moved to a centralized location and made available only upon request, as the NJCTA suggests, the Board believes that it might see a delay in the availability of information, frustrating the purpose of the public file notice exception as initially crafted. The Board therefore believes that the current rule provides adequate protection to the customer, while imposing a minimal burden on the cable television operator. The Board believes that, with the advent of electronic storage, a public file for an entire year of promotions could be kept on a single compact disc, occupying a small amount of space.

The NJCTA, in its informal comments, stated that waiver requests for price reductions result in an administrative burden that, on balance, does not increase or improve customer protection. The NJCTA proposed maintaining the 30-day notice requirement of subsection (b) for price increases and requiring advance notice for price decreases. The Board believes that the requested modification serves the public interest and has proposed modifying this section accordingly. However, since the rule contains a provision to seek a waiver in cases of a decrease in rates, the Board proposes that the waiver provision be deleted since waivers are not issued for increases.

N.J.A.C. 14:18-3.17 requires specific notice of alteration in channel

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allocation. The NJCTA, in its informal comments, stated that in negotiating with programmers, it is not always possible to provide 30-day notice of a channel change. Doing so while negotiations are ongoing would mean providing “on again” “off again” notice to customers, municipal officials, and the OCTV, resulting in confusion and significant paperwork and mailing costs. Moreover, in disagreements over channel carriage, operators may not know that a network is being removed until after it is removed. The NJCTA proposed amending section (a) to require 30-day notice of deletion of a network when that action is within the sole control of the cable television operator and notice as soon as practicable when the deletion is not within the sole control of the cable television operator. The Board notes that the current rule provides for relaxation by the OCTV of the notice requirements under certain provisions. Since, in instances involving negotiations for carriage, the cable television operator has some degree of control, the Board does not believe it would be appropriate to completely waive notice requirements for all but instances within the cable television operator’s sole control, such as a programmer or satellite transponder ceasing to operate. Therefore, the Board does not propose to modify this provision of the rule.

The NJCTA further stated that cable television companies’ business needs are changing, technology is evolving, and pressure to expand program and service offerings is increasing in intensity. The NJCTA proposed replacing subsection (b) with a requirement for 30-day notice for more than 10 channel changes and advance notice for additions and minor (fewer than 10) line-up changes. The Board does not believe that this revision would serve the public interest nor does the Board think it is appropriate to use any “magic number” to trigger or truncate notice. One aspect of requiring sufficient notice to customers is to allow the customer to make an informed decision as to whether to maintain the service and to know where the (realigned) services will be located. Therefore, the Board does not propose to amend this section.

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N.J.A.C. 14:18-3.18 requires cable television companies to provide certain periodic notices to customers.

N.J.A.C. 14:18-3.19 pertains to interest on uncorrected billing errors. The Board proposes to amend subsection (b) regarding the method of determining interest to use the method currently used by the FCC, which is the Internal Revenue Service rate compounded daily through the date of distribution of the refund or credit. The Board proposes this change to bring a measure of conformity to federal regulations. The FCC uses this method for determining refunds for customer rate overcharges, found at 47 CFR § 76.942(e), and therefore the Board believes it is appropriate to incorporate it into its own rules.

N.J.A.C. 14:18-3.20 pertains to the requirements for discounts for senior and disabled citizens. The NJCTA, in its informal comments, stated that senior/disabled citizens' discounts are often made available to just one community. Filing revised tariffs is a paperwork burden on the company. The NJCTA proposed that paragraph (a)3 be replaced with a requirement that the operator communicate the terms and conditions of the discount to the OCTV by letter. The Board does not believe that this revision is in the public interest. The Board requires that tariffs be filed as a binding document detailing the rates, terms and conditions for all services, which would include all discount provisions, such as senior/disabled citizens' discounts.

N.J.A.C. 14:18-3.21 pertains to the avoidance of interruptions and requirement for prompt restoration.

N.J.A.C. 14:18-3.22 pertains to notice of planned interruptions.

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N.J.A.C. 14:18-3.23 pertains to the reimbursement for lost, stolen or damaged equipment by customers. The NJCTA, in its informal comments, stated that when a converter box is lost or stolen, it must be replaced by the company at today's cost, not at the cost of the converter box at the time of installation. Moreover, tracking actual cost at the time of installation for converter boxes would be prohibitive as converter boxes have a very long useful life. The NJCTA suggested eliminating the provision of subsection (a) that requires replacement cost to be calculated at the cost at the time of original installation, thereby permitting calculation to be made at today's replacement cost. The existing rule provides for replacement at the greater of actual original cost or the cable television operator's replacement cost. Therefore, the Board sees no reason to change this section. Given the ever-decreasing cost of older generation technology still in use, tracking of the actual original cost under the rule is generally to the cable operator's benefit.

The NJCTA also stated that paying customers are footing the bill for cable television theft. The NJCTA claimed that unreturned boxes often are stolen by people those who re-sell them to others for the purpose of receiving stolen cable television service. The NJCTA proposed that the Board modify this provision to allow cable television operators to double the equipment replacement charge to customers who "lose" converters on multiple occasions, but who cannot produce a legitimate police or fire report. The Board believes that change sought by the NJCTA would, in effect, render a judgment against the customer and award punitive damages to the cable television operator without due process being afforded to the customer. The Board believes that current State and Federal law provide adequate means to protect the cable television company's interests with regard to theft of service, and therefore declines to make the change proposed.

N.J.A.C. 14:18-3.24 pertains to late fees and charges.

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The Board proposes to add a new section, N.J.A.C. 14:18-3.25, regarding refunds and credits. The proposed new section would state how long a cable television operator has to provide refunds due to customers. The Board proposes this change to bring its rules in conformity with federal regulations. The FCC uses this method for setting a timeframe for the issuance of refunds, found at 47 CFR § 76.309(c)3, and therefore the Board believes it is appropriate to incorporate it into its own rules. This section has been proposed to mirror our rules to FCC rules found at 47 C.F.R. § 76.309(c)3, with the exception of terms of art, used in these rules, but not in the FCC rules: “subscriber” is “customer” and “cable” is “cable television”.

The Board proposes to add a new section, N.J.A.C. 14:18-3.26, regarding how a customer may extend cable wiring within a home. This section has been proposed to conform our rules to FCC rules found at 47 C.F.R. § 76.806 and to address growing need of customers to be made aware of their rights and responsibilities concerning installation of new cable home wiring or changes to existing internal cable wiring, particularly where such existing wiring is owned by the cable television operator. The rule also addresses the allowable connections thereto.

Subchapter 4 pertains to cable television operator rights, in general.

N.J.A.C. 14:18-4.1 requires cable television companies to obtain permits for street openings, where necessary.

N.J.A.C. 14:18-4.2 pertains to when a cable television company may refuse to connect a customer.

N.J.A.C. 14:18-4.3 pertains to the basis of discontinuance of service of a

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customer.

N.J.A.C. 14:18-4.4 pertains to when and how a cable television company may obtain access to customer's premises.

N.J.A.C. 14:18-4.5 pertains to compensation for taking because of installation of cable television facilities.

N.J.A.C. 14:18-4.6 provides that a cable television operator may require a deposit where credit has not been established. The NJCTA, in its informal comments, stated that cable television companies that bill monthly are permitted to require a deposit of just one month of service. Therefore, customers have two months to pay before being disconnected. Requirements for both parties to the transaction should be the same. The NJCTA proposed revising subsection (c) to permit companies to require up to two months of service as a deposit. The Board notes that the existing rule provides for up to two months of deposit, however, cable television operators are allowed to bill in advance for service, which effectively allows the cable television operator to require only one month's service as deposit. Therefore, the cable television operator already has within its control the means to affect a two-month deposit by not required advanced payments for service. Therefore, no change is needed to this section.

N.J.A.C. 14:18-4.7 provides that a cable television operator may require a deposit on auxiliary equipment, such as a converter.

N.J.A.C. 14:18-4.8 requires a cable television operator to provide receipts and records to customers posting a deposit.

N.J.A.C. 14:18-4.9 pertains to the return of deposits to customers by cable television operators upon termination of service.

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N.J.A.C. 14:18-4.10 allows cable television operators to provide customers a consolidated notice of information required by N.J.A.C. 14:18-3.18(a) or (b).

The Board proposes to add a new section, N.J.A.C. 14:18-4.11, Disposition of cable home wiring. This section has been proposed to mirror our rules to FCC rules found at 47 C.F.R. § 76.802, with the exception of terms of art, used in these rules, but not in the FCC rules: “subscriber” is “customer”, “cable system” is “cable television system”, “cable service” is “cable television service” and “cable operator” is “cable television operator”. This proposed section also clarifies the rights of a homeowner or property owner and the cable television company with regard to in-place wiring if and when the homeowner or property owner chooses to contract with a provider of video services for its premises other than the incumbent franchised cable operator, and the cable television company has an ownership right in the in-place wiring. The rules set forth the procedural requirements established in 47 C.F.R. § 76.802 to allow a homeowner or property owner to use the wiring either by purchasing it or following abandonment of it by the franchised cable television operator.

The Board proposes to add a new section, N.J.A.C. 14:18-4.12, Home run wiring in MDU settings. This section has been proposed to mirror our rules and to clarify the use of home run wire in multi-dwelling unit (MDU) settings in instances where the MDU owner has a ownership interest in the wire and where it does not. This proposal is designed to address what has become a frequent concern of MDU owners as to their rights with regard to in place wiring if and when they choose to contract with a provider of video services for their building, other than the incumbent franchised cable operator. This proposal is based on the FCC home run wiring rules found at 47 C.F.R. § 76.804, but has been modified insofar as the FCC rules allow it to regulate certain business interests that the Board does not.

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The Board proposes to add a new section, N.J.A.C. 14:18-4.13, Access to molding. This section has been proposed to mirror our rules to Federal rules found at 47 C.F.R. § 76.805, with the exception of terms of art, used in these rules, but not in the federal rules: “subscriber” is “customer”, “cable system” is “cable television system”, “cable service” is “cable television service” and “cable operator” is “cable television operator”. This proposed section also clarifies the rights of a property owner to use in-place molding in multi-dwelling unit (MDU) settings in instances where the MDU owner has a ownership interest in the molding and where contractual rights may impact the MDU owners ability to install their own wires in the existing moldings. The proposed rule is designed to address what has become a frequent concern of MDU owners as to their rights with regard to in-place molding if and when they choose to contract with a provider of video services for their buildings, other than the incumbent franchised cable operator. The proposed rule is based on the Federal home run wiring rules found at 47 C.F.R. § 76.805.

N.J.A.C. 14:18-5.1 pertains to location and closing of local offices maintained by cable television operators. The DRA, in its informal comments, recommended that the Board revise subsection (c) to provide that a cable television operator state the reason for closing or relocating an office and that any notice of closure/relocation specify the Board's OCTV's address and toll-free number for filing of complaints related to the closing/relocation. The Board believes that the rules does not require a public interest test to affect an office closing or relocation and therefore has not proposed this modification.

The DRA recommended that subsection (d) be deleted because, with the modifications made to subsection (c), this provision is moot. The Board agrees and proposes to amend subsection (c) and delete subsection (d). The Board does not propose to require that cable television operators provide a reason for closing

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an office; however, NJCTA has requested that the OCTV issue guidelines delineating what needs to be filed in order for approval. N.J.A.C. 14:18-5.1(c) requires a petition for approval of an office closing or relocation to demonstrate that "such closure or relocation is not unreasonable, will not unduly prejudice that public interest, and setting forth the means upon Board approval of the petition, by which customers and other interested parties will be adequately notified of the closing or relocation and alternatives available in the case of a closed office." How a petitioner can successfully demonstrate these matters will vary significantly with each petition, depending upon the circumstances of the community served and the petitioning operator. In general, these demonstrations are supported by information concerning the effect the proposed closing or relocation will have on service hours and operation, the location of other nearby offices and whether the proposal violates the provisions of an existing municipal ordinance or Certificate of Approval. In those cases where a review of a petition by the OCTV leads it to conclude that any of the above matters have not been successfully demonstrated, the OCTV will request further information from the operator. There is no standard set of such further information that is requested, as what is requested varies with the petition content. However, the OCTV does believe that operators may benefit from its experience in reviewing petitions, and will issue a guidance document outlining the types of information it has found useful in its consideration of petitions.

The NJCTA, in its informal comments, stated that cable television companies and their customers are significantly burdened by the requirement to receive permission from the Board to relocate or close an office. Cable television companies are already required to seek Board approval of actions that require changes in franchise agreements. In addition, because the Cable Television Act requires cable television operators to maintain local offices, customers are protected from cable television companies that would cause them significant inconvenience in re-locating or closing an office. Further, when delays mount to a

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year or more, the consequence is significant cost to the cable television companies because they cannot request moving an office without knowing the new location. At the same time, a cable television company cannot sign a lease at a new location because without having permission to close the existing office they risk being saddled with the cost of operating two offices, i.e., two rents, two staffs, two investments in fit-out when certain equipment could just be relocated, The NJCTA proposed revising subsection (c) to require notice to the OCTV of office closings and relocations provided that no franchise requirements are triggered. The Board disagrees with the NJCTA that this provision should be modified. Local offices were deemed sufficiently important by the Legislature to make provision for them a requirement in the 1972 Cable Act. This rule serves a purpose not only by notifying the public but insuring that specific franchise commitments have been met and safe, adequate and proper service is being afforded. Customer service is an essential part of the local office. Furthermore, in many instances, a single office serves as the statutory local office for multiple municipalities, whether or not it is embodied in franchise agreements or not. Recent actions involving the use of retail establishments by the cable television industry as customer service centers and the closing of such locations, underscores the need for the Board to maintain this requirement. Therefore, review of closure of an office that will affect service to cable television customers is imperative and the Board declines to amend subsection (c) to provide that the cable television operator only file in circumstances where moving a local office would be in violation of a franchise requirement as interpreted by the cable television company.

N.J.A.C. 14:18-5.2 requires cable television operators to file a listing of personnel to be contacted in cases of during and after working hours.

N.J.A.C. 14:18-6.1 requires notification to the OCTV of the location of records and availability of records for review by OCTV staff. In its informal

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comments, the NJCTA contended that in an era of computerization and consolidation, companies cannot maintain physical records locally. Other telecommunications companies routinely receive authorization to maintain records outside the state. The NJCTA stated that as long as records are available in State when needed, the OCTV's need for information and oversight should be met without the requirement for physical records to be in the state at all times. The NJCTA proposed that the data and other information required by subsection (a) be made available for inspection in New Jersey on the current five days' notice, but that the physical location of the records should be irrelevant. However, the Cable Television Act at N.J.S.A. 48:5A-45 requires cable television companies to keep books and records within the State. The Board cannot waive a statutory provision within its rules. However, the cable television company can seek permission from the Board to keep books and records outside of the state pursuant to N.J.A.C. 14:17-6.19. Therefore, the Board does not propose to modify this section.

N.J.A.C. 14:18-6.2 requires maintenance of plant and operating records including complaint records and FCC filings. In its informal comments, the NJCTA contended that in an era of computerization and consolidation, companies cannot maintain physical records locally. Other telecommunications companies routinely receive authorization to maintain records outside the state. The NJCTA stated that as long as records are available in State when needed, the OCTV's need for information and oversight should be met without the requirement for physical records to be in the state at all times. The NJCTA proposed that the data and other information required by subsection (a) be made available for inspection in New Jersey on the current five days' notice, but that the physical location of the records should be irrelevant. However, the Cable Television Act at N.J.S.A. 48:5A-45 requires cable television companies to keep books and records within the State. The Board cannot waive a statutory provision within its rules. However, the cable television company can seek permission from the Board to keep books and records

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outside of the state pursuant to N.J.A.C. 14:17-6.19. Therefore, the Board does not propose to modify this section.

N.J.A.C. 14:18-6.3 requires records to be kept of accidents. The NJCTA, in its informal comments, stated that in an era of improved safety monitoring by OSHA and, where applicable, by unions, accident reporting to the OCTV should be limited to the most severe incidents that are likely to generate public interest. Moreover, the section is unnecessary because 14:18-7.2 requires reporting of deaths and serious injuries. The NJCTA proposes removing the requirement. At the informal meeting, the NJCTA expressed concern that this provision duplicated that of section 7.2(b). The Board agrees that there may be some duplication and therefore proposes to merge the provisions of subsection 7.2(b) into section 6.3.

N.J.A.C. 14:18-6.4 provides what is deemed public records and how the public may obtain copies of those records. The NJCTA, in its informal comments, stated that OPRA (Open Public Records Act) contains revised requirements that cover any concerns by the OCTV. The NJCTA proposed removing this section because the requirement is no longer necessary. The Board believes that retention of this rule places no additional burden on the cable industry, but rather clarifies the treatment of certain records kept and maintained by the OCTV. Therefore, the Board does not propose to modify this section.

N.J.A.C. 14:18-6.5 requires complaints records to be kept for a period of one year and to be open for inspection by OCTV staff.

N.J.A.C. 14:18-6.6 requires the reporting and record keeping of interruptions and outages by cable television operators. The NJCTA, in its informal comments, stated that the letter requirement of the OCTV for non-business hour requirements differs significantly from the rules. The NJCTA proposed augmenting the current

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standard in subsection (a) with the standard for non-business hour reporting outlined in the advisory frequently sent by the OCTV to all cable television operators. The advisory specifies certain OCTV individuals designated by the Board to receive emergency notifications for outages and other emergent situations affecting cable television company service and personnel, but contains personally identifiable information of OCTV staff and is not appropriate for inclusion in the rules. However, the Board agrees that the OCTV procedure for after-hours notification is an appropriate addition to the rule, and proposes to modify the rule accordingly.

N.J.A.C. 14:18-7.1 requires the filing of periodic reports. The NJCTA, in its informal comments, stated that as business plans and strategies have changed, reporting all aspects of the business has the potential to put companies at a competitive disadvantage if that information is subject to public inspection by would-be competitors, such as the publication of homes passed by system. The NJCTA stated that all of the information required is available on request and is often requested and provided. The NJCTA proposed to eliminate the requirement for filing Cable Facts Questionnaire as required by subsection (a) in favor of the requirement to make information available to the OCTV upon request as found in 14:18-6.1 and other sections. The OCTV believes that this information is necessary to perform the duties vested in it by N.J.S.A. 48:5A-1 et seq. and N.J.A.C. 14:17 and 18. Therefore, the Board declines to modify this section.

The NJCTA also stated that SEC financial filings are required on March 15 of each year and that requiring filing of OCTV financial forms at essentially the same time (March 31) is burdensome. The NJCTA proposed moving filing of OCTV financial forms as required in subsection (b) to June 1 of each year. The Board believes that 90 days from the end of the calendar year is sufficient time to allow compilation of the requisite financial information. In addition, Board believes that a significant burden would be placed on staff of the OCTV by requiring all financial

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forms to be filed and reviewed simultaneously. If a cable television operator cannot comply with the March 31 date, it can request an extension of time to file.

Therefore, no modification is proposed.

In its informal comments, the Borough of Chatham suggested that the Board establish requirements that obligate the cable television operator to maintain records demonstrating compliance with Federal customer service standards and that municipalities be allowed to require cable television operators to do so as well. The Board believes that the OCTV's compliance reviews ensure that the state's cable television companies are complying with state and federal customer service standards. The Board therefore believes that modification of this section is not needed.

N.J.A.C. 14:18-7.2 requires the filing of special reports at the request of the OCTV or the Board. The NJCTA, in its informal comments, states that large cable television companies cannot respond quickly to requests for information that requires generation of dozens of data points. Such reports are often difficult to prepare, requiring weeks or months of effort. The NJCTA suggested that requests for additional reports should be made by vote of the Board. The Cable Television Act at N.J.S.A. 48:5A-9 permits the director of the OCTV to require cable television operators to provide any additional information necessary for all purposes necessary to enable the director to administer the duties of the OCTV. Therefore, Board approval is not needed and the Board does not propose to modify this section. The Board proposes to delete subsection (b) as it duplicates the requirements of section 6.3.

N.J.A.C. 14:18-7.3 requires filings by cable television operators including pole attachment agreements and tariffs.

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N.J.A.C. 14:18-7.4 requires cable television operators to notify the OCTV of system rebuilds, upgrades, hub and headend relocations. The NJCTA stated, in its informal comments, that cable television companies often make changes in plant to improve service to customers. Waiting thirty days to do so is not in the best interest of customers. The NJCTA proposed eliminating 30-day notice requirement of headend/hub relocation required by subsection (a) in favor of simultaneous notice. The Board's OCTV needs to know when and where construction is taking place for safety and health reasons; for monitoring of construction; and to be sure that customers that call the OCTV regarding interruption of service or workmen in their area are provided with accurate information. In addition, the Board believes that all reasonable cable television companies know at least 30 days' in advance that major construction will be undertaken. Because of this, the Board does not believe that this provision is onerous or that it will delay the start of construction and declines to modify the provision.

N.J.A.C. 14:18-7.5 provides written procedures for use of public, educational and governmental (PEG) access channels where the cable television operator maintains control of the channel. The NJCTA stated, in its informal comments, that physical plant in each customer walk in center does not always permit "posting" of a tariff in a location convenient to customers. In addition, PEG access users and potential users rarely rely on posted materials as a source of information. The NJCTA contended that notice of availability of PEG access guidelines should be sufficient to meet the intent of the current rule. The NJCTA proposed revising subsection (d) to permit companies to provide an obviously noticeable statement indicating that copies of PEG access guidelines are available to customers on request. The Board agrees and proposes to change subsection (d) to provide that a prominent notice be posted that the guidelines are available for inspection in the public area.

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N.J.A.C. 14:18-7.6 requires cable television operators to file information about their customer service and internal telephone systems on an annual basis. In its informal comments, the NJCTA stated that in a technologically advanced environment, cable television companies should be free to operate their customer telephone systems in any manner they choose without needing to make onerous reports provided they are meeting applicable customer service standards. The NJCTA proposed eliminating this rule if the cable television company is meeting the federal customer service response standard, proposed at section 7.8. The Board notes that in a general audit by OCTV staff, the cable television industry has not demonstrated consistent compliance with the Federal standard, as proposed to be adopted in 7.8. Understanding the details of the phone system used by the cable television operator will assist OCTV staff in reviewing proposed section 7.8. This section does not dictate the type of phone system to be used by the cable television operator; it is simply a mechanism for reporting the telephone system in use. Therefore, the Board declines to modify this section.

N.J.A.C. 14:18-7.7 currently requires cable television operators to file telephone system performance reports on a semi-monthly basis. The NJCTA, in its informal comments, stated that the OCTV, by letter, has permitted quarterly reporting among other changes. The NJCTA suggests that the rules be revised to show these changes. The Board proposes to make the change to require quarterly reports. This change will also conform the Board's rules to the FCC standard found at 47 C.F.R. §76.309(c).

The Board proposes a new rule, N.J.A.C. 14:18-7.8. The proposed rule would require cable television operators to comply with existing Federal customer service obligations concerning telephone availability and answer time under normal operating conditions. More specifically, under normal operating conditions, as defined in the proposed rule, cable television operators would be required to answer

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a customer telephone call within 30 seconds of when the connection is made, including wait time. If the telephone call needs to be transferred, transfer time could not exceed 30 seconds. The proposed standards would have to be met under normal operating conditions no less than 90 percent of the time, as measured on quarterly basis. In addition, under normal operating conditions, a cable television operator would be required to insure that a customer calling its customer service number received a busy signal less than three percent of the time.

Based on the high level of complaints received by the OCTV each year from customers complaining about telephone accessibility of the state's cable television operators, and declining telephone performance shown in the telephone system performance information filed pursuant to N.J.A.C. 14:18-7.7, the Board believes it is in the public interest to formally adopt the FCC telephone answering standards as detailed in 47 C.F.R. §76.309. The OCTV's industry-wide review of cable television operator telephone system performance filed pursuant to the telephone system performance rules (section 7.7) indicated a general level of inconsistent, incomplete and missing reports. For reports that were filed, as noted above, staff compared the cable television industry's reported performance data against the FCC's standard set forth in 47 C.F.R. §76.309(c) and found that reported customer hold times for many cable television systems in 2001 were between 1.5 and 4 times greater than the FCC standard. In one system, hold times in two separate quarters were reported at levels of nine minutes and 15 minutes, or 18 and 30 times greater, respectively, than the FCC standard requirement. The statistics indicate hold times that exceed FCC guidelines for at least 80 percent of the State's cable television systems in the period of July 2000 through December 2001 and some level of non-compliance for most of the 44 cable television systems reporting. Therefore, the Board proposes this new rule.

N.J.A.C. 14:18-8.1 specifies that any cable television company operating in

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New Jersey must file copies of liability insurance certificates.

N.J.A.C. 14:18-9.1 pertains to equipment for testing and requires that cable television operators make available this equipment for use by OCTV staff, for oversight and enforcement of technical standards.

N.J.A.C. 14:18-9.2 requires that cable television operators submit FCC proof-of-performances to the OCTV upon request. The Board proposes to modify subsection (b) to require that cable television operators file FCC proof-of-performances to the OCTV in March and September. Based on reports that have been filed with the OCTV, staff has observed instances of non-compliant test results and other irregularities, which may be attributable at least to unfamiliarity with the requirements of the FCC's rule. Examples include: data being reported for one required FCC test for a particular signal distortion category (composite second order) was also being represented as actual results for a another distortion test category (composite triple beat); the reading for cross modulation (a signal distortion category) being reported as identical at all test points; and certain required tests, involving the cable television company's headend facility not being conducted at all. These results, coupled with a 108% growth in customer quality of service complaints when comparing complaint statistics for the first 6 months of 2001 to the complaint statistics for the first six months of 2002, warrant that the filing of proof-of-performance test results again be a mandatory requirement. The Board, therefore, proposes reinstitution of this requirement.

N.J.A.C. 14:18-10.1 pertains to the scope of technical standards on cable television operators.

N.J.A.C. 14:18-10.2 pertains to technical performance requirements by cable television operators.

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N.J.A.C. 14:18-10.3 pertains to the requirements for specialized NTSC video and non-video signals. The Board proposes to modify the requirements so that they pertain to MPEGx channels as well in recognition of the FCC mandated transition to digital broadcasting and transmission and the standard (MPEGx) that is used for digital compression and broadcasting. The existing NTSC reference refers to specialized analog signals only, and this change will allow the Board's rule to recognize digital signals as well.

N.J.A.C. 14:18-10.4 through 10.5 are reserved.

N.J.A.C. 14:18-10.6 pertains to additional tests that can be required to ensure compliance. The NJCTA stated, in its informal comments, that the FCC has pre-empted franchising authorities on cable television system testing and technical specifications. The NJCTA proposed eliminating this section. The Board is not convinced that the FCC has precluded the OCTV from testing and technical specifications. Therefore, the Board declines to make this modification absent proof or validation from the FCC.

N.J.A.C. 14:18-10.7 10.13 are reserved.

N.J.A.C. 14:18-11.1 pertains to application for municipal consent and who may apply. The NJCTA stated, in its informal comments, that the Board should allow cable television companies to curtail unnecessary administrative burdens particularly where practical experience indicates that municipalities do not utilize multiple copies of municipal consent applications (municipal consent application). The NJCTA suggested clarifying this provision to require that three copies of the municipal consent application be filed with the BPU, and that only one copy be filed with the municipality, unless additional copies are requested. The Board does not

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believe that the municipalities' best interests would be served by providing them with only one copy of the municipal consent application. Without empirical evidence that municipalities do not utilize the three copies of the municipal consent application provided to them, the Board declines to relax the standard. However, the Board agrees with the NJCTA that three copies of the municipal consent application should be provided to the OCTV and therefore, proposes to modify this section accordingly.

N.J.A.C. 14:18-11.2 requires an application for municipal consent to operate a cable television system be filed and specifies what information must be filed on the application. In its informal comments, the NJCTA stated that the form application should be reviewed for changes that more accurately reflect today's technology. The NJCTA sought no specific changes to the rule; however, asked that cable television operators be provided an opportunity to comment on the application form used by the OCTV. While the industry has not proposed any changes to the rule, the OCTV is willing to accept comments from the industry and other interested parties on how the application form should be modified. In this section, therefore, as no modification other than the proposed amendment from "subscriber" to "customer" is requested, none is proposed.

N.J.A.C. 14:18-11.3 pertains to the appointment of citizens' committee and the duties of the committee. The NJCTA stated, in its informal comments, that citizen's committees often seek to explore areas of a cable television operator's business that are unrelated to the purposes of assessing a cable television provider's proposal for municipal consent. The NJCTA proposed modifying this rule to specify that the duties and functions of the committee be relegated to the process of renewing municipal consent, specifically those outlined in 14:18-13.2. The NJCTA's assertion that the duties of the cable television committee are limited to the review of the application for municipal consent is not factual. In most

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instances, cable television committees are put together in order to assess the past performance of the cable television operator and future cable related needs of the community in the three year fact finding process known in New Jersey as "ascertainment". However, many cable television committees are standing committees charged by their municipalities to oversee cable television operations in the community. There is no provision in the statute or the Administrative Code that prohibits these activities. Therefore, the Board declines to make this revision.

N.J.A.C. 14:18-11.4 pertains to the hearing date to be held by the governing body on the application.

N.J.A.C. 14:18-11.5 pertains to the prohibition of ex parte communications. The NJCTA, stated in its informal comments, that most franchise negotiations involve only one operator. Where only one operator is involved, the NJCTA contended, the rule is unnecessary. In renewal negotiations, some attorneys have interpreted this requirement to mean that they cannot have ex-parte communications. The NJCTA recommended that this rule be modified to provide an exemption in instances where only one cable television operator is involved. The Board believes that this section is necessary and required by statute. The intent of the rule was that a municipality should not speak with a cable television operator vying for a franchise against another cable television operator without the other party being aware of the correspondence so as not to give one party an advantage in securing a franchise. As most franchises are currently either renewals or overbuilds where this prohibition would not be effective, the Board proposes to modify this rule to provide that where there are two or more initial applicants, this rule would apply.

N.J.A.C. 14:18-11.6 pertains to the notice of hearing. The NJCTA, stated in its informal comments, that municipalities are not always conversant with the rules

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regarding appropriate public notice of public hearings. The NJCTA suggested that the OCTV provide a copy of an appropriate public hearing notice in the Guide to Franchise Renewal. However, the NJCTA does not state how this should be incorporated into this provision. In addition, while the OCTV will provide a sample public hearing notice to a municipality that request it, the Board only specifies the minimum of what must be in the public hearing notice on the filed application, and does not preclude municipalities from containing additional information to conform it to municipal law or the governing body's desires. Therefore, as no specific revision to this rule has been requested, none has been proposed.

N.J.A.C. 14:18-11.7 specifies before whom the hearings on the application must be held.

N.J.A.C. 14:18-11.8 specifies the procedure at the hearing.

N.J.A.C. 14:18-11.9 pertains to amendments to application and notice thereof.

N.J.A.C. 14:18-11.10 pertains to additional information other than amendatory and notice thereof.

N.J.A.C. 14:18-11.11 specifies how the record of hearing must be made.

N.J.A.C. 14:18-11.12 pertains to adjournments of hearing.

N.J.A.C. 14:18-11.13 specifies the time for decision of the governing body and the contents of the decision. In its informal comments, the NJCTA stated that municipalities often confuse this with the renewal process and the requirement to adopt an ordinance. As a result, they sometimes move to act on the adoption of an

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ordinance before the negotiations have taken place in earnest. The NJCTA recommended that this section be clarified that this is a decision on the application, not the ordinance and that this is only required in an initial application, not in the renewal process. This is a statutory provision (N.J.S.A. 48:5A-23(d)) and cannot be waived. However, the Board proposes to modify the language to clarify that the report be in writing, and that it may be in the form of a draft ordinance or resolution.

N.J.A.C. 14:18-11.14 pertains to notification of utilities and negotiation of pole attachments.

N.J.A.C. 14:18-11.15 specifies the form of consent required.

N.J.A.C. 14:18-11.16 specifies the contents of ordinance. In its informal comments, the NJCTA stated that since the franchise fee is set by State statute, it is not a negotiable item. Requests for higher fees require petition and Board approval. The NJCTA suggested deletion of paragraph (a)6 to remove the requirement for provision of a franchise fee from ordinances. Since municipalities may petition the Board for higher franchise fees, and acceptance of an ordinance containing such a provision and filing of a Certificate of Approval petition by the cable television company is considered a petition to the Board for approval of the higher franchise fee, the Board believes it is inappropriate to remove the requirement for franchise fee from required provisions of the ordinance, and therefore, declines to propose any modification.

N.J.A.C. 14:18-11.17 specifies the restrictions to the contents of the ordinance. In its informal comments, the NJCTA contended that in view of changes in federal and state law, this section should be expanded to include other areas of cable television rules now occupied by State and Federal law or regulation. The NJCTA recommended adding restrictions on programming, customer service,

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enforcement and reporting requirements in the municipal consent ordinance. The Board declines to make this revision. There are certain provisions which the municipality may include in its ordinance which may exceed the requirements of the administrative code and statute. If a cable television company is willing to accept these provisions, the Board does not believe it is in the public interest to forbid their content in the municipal consent ordinance.

N.J.A.C. 14:18-11.18 requires OCTV review of the ordinance prior to introduction and adoption.

N.J.A.C. 14:18-11.19 pertains to acceptance by company of the ordinance. The NJCTA proposed increasing the timeframes in subsection (a) to 10 working days and clarify in subsection (b) that 10 days means working days. The Board does not propose to make the changes suggested by the NJCTA. Statutorily, a cable television company is required to accept a municipal consent ordinance, if it intends to do so, within 10 days of its issuance and that an ordinance not so accepted is considered void (N.J.S.A. 48:5A-24.) The Board, in order to ensure that the cable television operator was provided a copy of the ordinance, placed a requirement in the rule that requires a municipality to serve the ordinance on the cable television operator within two days. Further modification of the rule would conflict with the statutory requirement.

N.J.A.C. 14:18-11.20 specifies the commencement date of the ordinance.

N.J.A.C. 14:18-11.21 is reserved.

N.J.A.C. 14:18-12.1 pertains to the filing for a certificate of approval by a cable television operator.

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N.J.A.C. 14:18-12.2 specifies the information to accompany the petition for certificate of approval. In its informal comments, the NJCTA stated that cable television companies are burdened administratively by redundant information requirements for filing a petition for approval of the Certificate of Approval. The NJCTA recommended deleting sections that repeat requirements contained in the municipal consent application. The Board agrees that this section requires redundant information to that provided in the municipal consent application. This requirement was added due to the concerns of the cable television industry that filing two different forms at the municipal and Certificate levels was difficult and burdensome. The reasoning for not eliminating this provision altogether is that it allows the Board to have updated information on the cable television system within the municipality, as often the length of time between the filing of the municipal consent application and the petition for Certificate of Approval can be lengthy, especially where there have been protracted negotiations. The Board agrees however, that this section should be conformed to the requirements of section 11.2 and has proposed modification accordingly.

N.J.A.C. 14:18-12.3 pertains to the requirements for plant rearrangement verification.

Subchapter 13 pertains to renewals of cable television franchises. Federal law, 47 U.S.C. § 546, provides for determination of the past performance of a cable television operator and future cable-related needs by a franchising authority beginning 36 months prior to the expiration of the franchise term. The Board's OCTV is designated as the franchising authority by N.J.S.A. 48:5A-1 et seq. and N.J.A.C. 14:18-1.2. However, the Board recognizes that the municipality should perform determination of future cable-related needs. To that end, the Board has promulgated this subchapter to provide for a bifurcated franchising process, which allows a municipality to consider whether the cable television operator's proposal is

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sufficient to meet the future cable-related needs of the community. As the franchising authority, the final decision for renewal ultimately lies with the Board. This subchapter has been promulgated in order to ensure timely compliance with both 47 U.S.C. § 546 and N.J.S.A. 48:5A-1 et seq.

N.J.A.C. 14:18-13.1 pertains to the initiation of municipal consent renewal process.

N.J.A.C. 14:18-13.2 pertains to the optional pre-proposal, "ascertainment," phase. The NJCTA stated, in its informal comments, that Federal law requires an analysis of the cable-related needs and interests taking into account the cost of meeting those needs. The NJCTA recommended that this rule should reflect the federal standard by including this language. Furthermore, the NJCTA contended, municipalities also often attempt to include in the ascertainment areas that are not within their authority to review. The NJCTA proposed adding language to subsection (a) and (b) that reflects federal law and that refers to lack of municipal authority to address those restricted areas identified in 14:18-11.17. The Board believes that there is nothing in state or federal law that precludes municipalities from examining aspects of the cable television operator's business that are outside its authority to regulate. The Board believes that the report culminating the review period by the municipality can be used by the cable television company to provide better customer service. Therefore, the Board declines to make this revision.

N.J.A.C. 14:18-13.3 specifies when a cable television operator must file a municipal consent application.

N.J.A.C. 14:18-13.4 pertains to the mandatory pre-proposal, "municipal consent," phase.

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N.J.A.C. 14:18-13.5 pertains to the cable television operator's proposal for Renewal Certificate of Approval. The NJCTA contended, in its informal comments, that an accepted ordinance that contradicts something contained in a municipal consent application reflects both parties' agreement and therefore, cable television companies should not be required to amend the application to reflect changes. The NJCTA suggested deleting the second sentence in subsection (c). N.J.A.C. 14:18-12.2 requires that a cable television operator file an updated application. The application should reflect any changes to information contained in the municipal consent application filed with the municipality. The Board's OCTV has found that often information contained in the ordinance is not reflected on the revised application. As all documents are binding on the company to the extent they do not conflict, the OCTV needs to ensure that all information on file is accurate. Therefore, the Board declines to make this revision.

N.J.A.C. 14:18-13.6 pertains to automatic renewals.

N.J.A.C. 14:18-13.7 pertains to hearing before an Administrative Law Judge in cases of denial or arbitrary refusal.

N.J.A.C. 14:18-13.8 pertains to compliance with Federal terms and conditions for sale upon denial of a Certificate.

N.J.A.C. 14:18-13.9 specifies that where Subchapter 13 does not apply, Subchapter 11 shall apply.

N.J.A.C. 14:18-14.1 provides that the rules specified in Chapter 18 are not retroactive.

N.J.A.C. 14:18-14.2 pertains to deviation and modification of the rules

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specified in Chapter 18.

N.J.A.C. 14:18-14.3 pertains to conflict between tariffs and Chapter 18 and specifies that in those cases, Chapter 18 governs. The NJCTA has proposed revising tariff filings, and pursuant to its proposal, the NJCTA proposes eliminating this section. The Board believes that retention of this rule places no additional burden on the cable industry. Rather, it removes a potential item of dispute when a cable company's tariff is found to conflict with the Board's rules. Therefore, the Board declines to change the existing rule.

N.J.A.C. 14:18-14.4 provides that no cable television operator shall discriminate in rates.

N.J.A.C. 14:18-14.5 pertains to the authority of the OCTV and Board to promulgate the rules.

N.J.A.C. 14:18-14.6 provides that prior rules are revoked except as otherwise provided.

N.J.A.C. 14:18-14.7 provides that in the event a cable television operator is found to be subject to effective competition pursuant to 47 C.F.R. Sec. 76.905, certain provisions of this chapter may not apply to it. The Board proposes to amend this section to remove paragraphs (a)8 and 9, as these provisions are subject to the incorporation of FCC standards proposed at section 7.7 and 7.8.

In its informal comments, the NJCTA contended that in a market in which the cable television companies' chief competitor will be completely unregulated, cable television companies should be afforded the same ability - to compete on a level playing field. The NJCTA proposed amending this rule to include freeing cable

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television operators from all State rules that exceed Federal standards. The Board notes that under existing Federal standards local franchise authorities are afforded the ability to protect the public interest, and are not precluded in doing so by enacting customer service requirements that exceed Federal standards (47 C.F.R. § 309(c)). As the local franchising authority, the Board is in a unique position to protect the public interest with regard to regulated cable television services. The Board notes that the competition most generally considered as “effective competition” to cable television services, direct broadcast satellite, has only reached an approximate 15 percent penetration in the State, based on television households. While this level of competition might be sufficient for the FCC to grant a finding of effective competition, the Board does not believe that this level is sufficient to relieve cable television operators from its customer service obligations. The Board therefore declines to propose amendment to this section that would allow a cable television operator facing significant competition, pursuant to the Federal definition, to only comply with the provisions of these rules that do not exceed Federal standards. Furthermore, the Board does not believe that evasion of customer service standards upon a finding of effective competition was the intended consequence of the FCC’s grant of a finding of effective competition. Absent a determination by the FCC that it was its intention to grant such relief, the Board does not believe that further modification of this rule would serve the public interest.

Appendix A specifies certain forms to be filed with the OCTV: Form CATV-1; Form CATV-2; Form F99; Application for Cable Television Franchise; Channel Allocation Form; Cable Facts Questionnaire; Line Extension Policy Form; Outage Form; and Accident/Injury Form.

A 60-day comment period is provided and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and

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N.J.A.C. 1:30-3.2 governing rulemaking calendars.

### **Social Impact**

The chapter proposed for readoption governs the substantive rules and requirements of the OCTV, setting forth the rights and obligations of customers and cable television operators, along with technical, reporting and filing standards. The chapter also contains subchapters that govern both the initial municipal consent process and the renewal of cable television franchises. The rules govern the protection of the public safety and welfare by insuring that cable television facilities and equipment are installed and used in an appropriate manner.

Subchapter 3, Customer Rights, defines the rights of customers and the obligations of cable television operators.

The proposed amendment to N.J.A.C. 14:18-3.5 requires cable television operators to provide credits for outages that last more than three hours; currently the standard is six hours. The credit for the most part will be automatic. The proposed change will benefit customers. OCTV complaints indicate that customers feel that the six-hour requirement to obtain an outage credit is unreasonable. In addition, the customer, in most cases, will no longer have to take affirmative action to receive an outage credit.

The proposed new rule, N.J.A.C. 14:18-3.25, clearly specifies for both the public and the cable television operator the timeframe for the issuance of refunds or credits when they are warranted, and in doing so, provides additional protections to both parties, without placing additional obligations on either party beyond that in existing federal law.

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The proposed new rule N.J.A.C. 14:18-3.26 also addresses the increasing need of cable television customers to clearly know their rights and responsibilities when they wish to add or extend cable wiring within their home, particularly when the cable television company has an ownership right to the home's existing wiring.

Subchapter 4, Cable Television Operator Rights, specifies the rights of cable television operators and the obligations of customers on issues of billing, disconnection, access to facilities and deposits. These sections protect the rights of both cable television operators and customers by clearly setting forth the respective obligations of both.

The proposed new rules N.J.A.C. 14:18-4.11, 4.12 and 4.13 adopt existing federal requirements clarifying the rights and obligations of property owners in the use of existing cable wiring or moldings where property owners have an ownership interest in the wiring or molding at the premises and where they do not.

Subchapter 5 pertains to office locations and closings. N.J.A.C. 14:18-5.1(c) requires cable television companies to petition the Board prior to closing an office. Some local commitments require cable television companies to maintain local offices within specified areas. The Board is responsible for insuring that all local commitments are met, which will continue to benefit customers. The Board, therefore, believes that continuation of this requirement is necessary to insure that cable television companies provide safe, adequate and proper service. The Board proposes to make minor modifications to the rule that will require the cable television operator to put the OCTV's address/telephone number on the public notice of an office closing/relocation.

Subchapters 6, 7 and 8 (Records, Reports and Filings, and Liability Insurance) concern the non-technical operations of the cable television company

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such as the location of offices, records, reports, filings and insurance requirements. The provisions pertaining to records, reporting, filings and insurance impose administrative burdens on cable television operators which must collect, file, and in some cases report, certain information. However, the rules proposed for readoption are necessary to permit the OCTV to monitor compliance with all statutory and franchise requirements.

The proposed amendment to N.J.A.C. 14:18-7.7 requires cable television operators to provide telephone system performance data on a quarterly basis; currently, the requirement is for bi-monthly filing of the data. The filing change will not require action or change by consumers and will lessen the filing burden on cable television operators.

The proposed new rule, N.J.A.C. 14:18-7.8, is expected to increase the level of overall industry compliance with FCC call answering standards and result in improvements in consumer responsiveness by the State's cable television industry.

As noted in the Summary above, the OCTV conducted an industry-wide compliance review of the telephone system performance rules and found that many cable television operators were filing incomplete and/or delinquent reports, and in some instances, filed no data at all. In addition, the performance data provided in most cases reflected hold times and busy percentages well above those outlined in the FCC customer service standards. As a result of these findings, the Board believes that formal adoption and enforcement of the FCC telephone performance standards pertaining to availability and answer time, will serve the needs of cable television customers and other members of the public needing access to the cable television company.

The subchapter on plant, testing of service and technical standards for

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system operation concern the technical aspects of cable television regulation. The rules proposed for readoption ensure that cable television companies operate in a safe and reasonable manner. The rules are intended to insure that the cable television companies supply an adequate level of service.

The readoption of the subchapters concerning the application for municipal consent, the application for a Certificate of Approval and renewals all govern the franchising process. They are intended to clearly articulate the procedures for obtaining and renewing a cable television franchise in accordance with State and Federal law. Subchapter 13, Renewals, provides municipalities with guidance on the procedures and standards for cable television renewals.

The readoption of subchapter 14 governs miscellaneous matters such as the non-retroactivity of the rules or modifications, the requirements for tariffs, rate discrimination, the Board's authority and prior rules.

### **Economic Impact**

This chapter imposes technical and operational requirements on cable television operators. Thus, it has some additional impact on operating costs, which are, to the extent permitted under Federal cable television rate regulations, passed on to the customer.

The proposed amendment to N.J.A.C. 14:18-3.5 requires cable television operators to provide automatic outage credits for outages which last more than three hours; currently the standard is six hours and requires the cable television customer to contact the cable television company to obtain the credit.

According to statistics filed by cable television operators and maintained by

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the OCTV concerning reportable outages, there were 3,675 reportable outages in New Jersey between the years of 1999 and 2001. There were 991 reportable outages in 1999; 821 reportable outages in 2000; and 1,863 reportable outages in 2001. 67 percent of those outages lasted less than three hours; increasing from 52 percent in 1999 to 77 percent in 2001. These statistics show that while the yearly total of outages has increased (991 in 1999, 1,863 in 2001), the duration and severity of outages continue to diminish. Cable television companies have made claims that increased reliability due to fiber optic backbone systems, standby power, and other innovations have resulted in reduction in the length of outages. The following statistics for the last three years demonstrate that 367 outages (six or more hours in duration) vs. 842 outages (between three and five hours in duration) for 1999 through 2001 represents 33 percent of the reportable outages, some of which may be in the exempt category.

Year	Total Number of Outages	# of Outages lasting 3 hours or more (percent)
1999	991	475 outages (48 percent)
2000	821	308 outages (38 percent)
2001	1,863	425 outages (23 percent)

The Board believes that proposed amendment would have an impact on cable television operators in New Jersey. Based on the past three years' statistics, cable television operators would have been required to provide approximately four times the number of outage credits as were required under the rules as they exist. However, in its day to day work as complaint officer for most of the state's 562 franchised municipalities, the OCTV has received many comments from customers who have stated that three hours of cable television service constitutes a significant portion or even the whole viewing day for them.

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The Board believes that it is appropriate to revisit this provision and make modifications accordingly. The proposed rules do not require a cable television operator to provide an outage credit if it can demonstrate that the outage was beyond its control and service was repaired within three hours of the time that restoration of service becomes possible. In addition, the outage credit rule continues mechanisms by which a cable television company can obtain a waiver for the provision of an outage credit if it is evidenced that doing so would cause hardship on the cable television company.

As discussed above, the credits required under N.J.A.C. 14:18-3.5 are, for the most part, proposed to be automatic credits, that is, a customer would not be required to call its cable television company to receive the credit. Technology and architecture of cable television systems have advanced to the point where automatic credits are feasible. Therefore, the Board believes that any costs associated with provision of automatic credits will not be unreasonable.

The proposed new rule, N.J.A.C. 14:18-3.25 is not expected to have any additional impact on cable television company operating costs as it imposes no additional requirements on the cable television companies than currently exist under federal law. Cable television companies and their customers are expected to benefit from the addition of N.J.A.C. 14:18-3.25 since it clearly sets a timeframe for the issuance of credits or refunds, and in the case of refund involving cable television company equipment, it requires a customer to return the equipment before a refund is issued. The proposed new rule will allow customers to avoid unreasonable delays in obtaining refunds and provide cable television companies a benefit from the return of their equipment.

The proposed new rules N.J.A.C. 14:18-3.26, 4.11, 4.12 and 4.13, deal with

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cable wiring. It is believed that cable television companies and customers will benefit from knowing each other's rights and responsibilities concerning the use of in-place cable wiring and the placement of new wiring in situations where the cable television company has an ownership interest in the wiring and when it does not. The proposed new rules are not expected to have any additional impact on cable television company operating costs as they impose no additional requirements on the cable television companies than currently exist under federal law.

N.J.A.C. 14:18-5.1(c) is an existing provision that requires cable television companies to petition the Board prior to closing an office. Industry commenters have requested that the Board delete this provision as cumbersome, intrusive and non-cost effective. The Board recognizes that compliance with this provision results in certain costs to cable television companies associated with filing, notification and continued operation at a site where lease may not be favorable. However, the Board is charged with insuring that all commitments both local and statewide are met. Insofar as some local commitments require cable television companies to maintain local offices within specified areas, the Board believes that this requirement is necessary, in spite of the costs that may be incurred complying with this provision.

The proposed amendment to N.J.A.C. 14:18-7.7 will lessen the filing frequency for telephone system information from bimonthly to quarterly, coinciding with the FCC requirement that such data be provided on a quarterly basis. This is expected to reduce the cost to the cable television industry for telephone information filing compliance by eliminating the need to compile two different sets of telephone performance data, one for the State and another for the FCC.

Cable television operators that find it impossible, impracticable or unduly burdensome to supply certain information may request specific waivers pursuant to

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N.J.A.C. 14:18-7.7(g). The Board notes that the OCTV has no waivers pending or in effect, that would excuse any cable television operator from filing the information required by this rule.

The proposed new rule, N.J.A.C. 14:18-7.8, is not expected to have any additional impact on the operating costs of cable television operators. The OCTV has already notified the state's cable television operators that it would be monitoring compliance with the FCC standard. The new rule now codifies the FCC standard that requires answering of telephone calls within a certain amount of time as well as other telephone customer service standards. While the Board believes that complying with these standards may incur additional expense to the cable television operator, the cable television operator is already obligated by federal law to meet the standards and therefore, the Board's inclusion of these requirements should not result in any additional expenditure of funds. The Board believes that the economic implications for most cable television operators will be minimal and that those systems that demonstrate an undue burden of compliance can seek waivers for specific rule requirements.

The rules proposed herein are necessary to adequately protect the safety and interests of the general public and cable television customers. The intent of the rules is for cable television companies to provide safe, adequate and proper service. The existence and enforcement of the rules require the sufficient staffing of the Board and the corresponding administrative and overhead costs. The Board believes the benefits from the rules exceed the burdens of the costs in absence of a competitive market to preserve the public interest.

As with regulated public utilities, all reasonable levels of expenses incurred by cable television operators in complying with these requirements will be considered to be business expenses, recoverable through rate proceedings and

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cost of service regulations. All fees and charges associated with practice and procedure before the Board and OCTV are set by statute pursuant to N.J.S.A. 48:2-56 and 48:5A-1 et seq., respectively. Costs that will be incurred include those of an administrative nature for the collection, maintenance and reporting of certain information, and the various costs of complying with plant, service testing and technical operating standards. The readoption of N.J.A.C. 14:18 is necessary to adequately protect the safety and interests of the general public and cable television customers.

### **Federal Standards Statement**

While many of the rules proposed herein are subject of federal laws, rules, regulations and standards, including franchising statute (47 U.S.C. § 546), technical regulations (47 C.F.R. Part 76, Subpart K) and rate regulations (47 C.F.R. Part 76, Subpart N), upon review of the applicable Federal documents, the Board does not believe that any of the rules proposed herein conflict or exceed Federal standards.

### **Agriculture Industry Impact**

The rules proposed for readoption with amendment have no impact on the agricultural industry.

### **Jobs Impact**

It is not anticipated that the rules proposed for readoption with amendment will result in the creation of new jobs or the loss of existing jobs. The rules proposed for readoption with amendment will not have an impact on any other sector of the economy of the State of New Jersey.

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### **Regulatory Flexibility Analysis**

It is anticipated that the rules proposed for readoption and proposed amendments will affect all cable television operators including three cable television operators which are defined as small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As outlined in greater detail in the Summary above, Chapter 18 as proposed for readoption imposes reporting, recordkeeping and other compliance requirements on cable television operators. These include the collection of information and the filing of reports to the Board as well as provision of notice to customers of their rights and obligations. The compliance requirements are to ensure that the cable television operator supplies safe, adequate and proper service. The Board has reviewed the rules proposed for readoption with amendments and it is the Board's belief that these rules are necessary to protect the customer and to ensure that cable television companies deliver a proper level of service. As such, it is not appropriate to waive the requirements of the rules as they pertain to small businesses.

The present employees of the cable television companies can perform all of the requirements of the rules proposed for readoption with amendments. It is not anticipated that a small cable television company would necessarily need outside professional services. However, a cable television company might determine that it is more economical to use contracted professional services to prepare and distribute billings, mail out required notices and/or conduct the required technical tests.

It is not anticipated that the rules proposed for readoption will require any significant additional initial capital costs other than those normally associated with the construction and operation of a cable television system. These are not expected to be unreasonable.

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The rules proposed for readoption will impose some additional reporting, recordkeeping or compliance requirements, but for the most part, will continue, and in some instances lessen, prior requirements for the filings and reports of various kinds required by statute or the Board. The reductions will benefit cable television operators, including small cable television operators, in that it will reduce costs and administrative burdens but will not affect service provided to customers.

Accordingly, as the submissions required by the rules proposed for readoption are essential, the Board does not find any reason to distinguish between large and small businesses.

### **Smart Growth Impact**

The Board is of the opinion that the rules proposed for readoption with amendments will have no impact on either the achievement of smart growth or the implementation of the State Plan.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:18.

**Full text** of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

#### **SUBCHAPTER 1. GENERAL PROVISIONS**

##### **14:18-1.1 Scope of regulations**

(a) - (d) (No change.)

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#### 14:18-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Cable home wiring" means the internal wiring contained within the premises of a customer which begins at the demarcation point. Cable home wiring includes passive splitters on the customer's side of the demarcation point, but does not include any active elements such as amplifiers, converters or decoder boxes or remote control units.

"Cable television system" means any facility within this State which is operated or intended to be operated to perform the service of receiving and amplifying the signals broadcast by one or more television stations and redistributing such signals by wire, cable, microwave transceiver, satellite or other device or means for accomplishing such redistribution to members of the public who subscribe to such service, or distributing through its facility any television signals whether broadcast or not; or any part of such facility. The term "facility" as used in this section includes all real property, antennas, towers, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a cable television company in providing service to its [subscribers and] customers.

"Component" means any individually offered service or piece of equipment.

"Customer" [or subscriber] means any individual, partnership, firm, corporation, government subdivision or agency receiving service from a cable television company.

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“Demarcation point” for new and existing single unit installations means a point at or about twelve inches outside where the cable wire enters the customer’s premises.

“Demarcation point” for new and existing multiple dwelling unit installations with non-loop-through wiring configurations means a point at or about twelve inches outside of where the cable wire enters the customer’s dwelling unit, or, where the wire is physically inaccessible at such point, the closest practicable point thereto that does not require access to the individual customer’s dwelling unit.

“Demarcation point” for new and existing multiple dwelling unit installations with loop-through wiring configurations means a point at or about twelve inches outside of where the cable wire enters or exits the first and last individual dwelling unit on the loop, or, where the wire is physically inaccessible at such point(s), the closest practicable point thereto that does not require access to the individual customer’s dwelling unit.

"Distribution plant" is the hardware, wires, electronics, equipment and other instrumentalities which deliver cable television service to the drop line feeding an individual [subscriber's] customer's home.

“MDU” means multiple dwelling unit.

“MVPD” means multichannel video programming distributor.

“Normal business hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include some evening hours at least one night per week and/or some weekend hours.

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"Normal operating conditions" means those service conditions which are within control of the cable television operator. Those conditions not within the control of the cable television operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within control of the cable television operator, include, but are not limited to, special promotions, pay-per-view events, rate increases, channel and/or service alterations, regular peak or seasonal demand periods, and maintenance or upgrade of the cable television system.

"Person" means any individual or group of individuals or any agency or instrumentality of the State of New Jersey or of any of its political subdivisions; but this definition shall not include a telephone, telegraph or electric utility company regulated by the Board where it merely leases or rents or otherwise provides to a cable television company wires, conduits, cables or pole space used in the redistribution of broadcast signals to or toward [subscribers or] customers of such cable television company.

"Physically inaccessible" means a location where access thereto would require significant modification of, or significant damage to preexisting structural elements, that would add significantly to the physical difficulty and/or cost of accessing the customer's home wiring.

"Promotional service" means the offering of an existing product, service, group of services or capability at a reduced introductory charge for a limited, specified period of time, usually not exceeding one month, during which the cable television company attempts to encourage new or additional customers to the product service.

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"Trial service" means the initial offering of a new capability or technology over a cable television system to some or all existing customers in the cable television company's service area for a limited, specified period of time, not to exceed six months, during which the cable television company assesses the performance or marketability of the new capability or technology, and after which the service is either introduced as a standard offering or discontinued.

## SUBCHAPTER 2. PLANT

### 14:18-2.9 Calculation of pole attachment rent

(a) In cases where the Board must determine the appropriate rental rate for cable television or similar third party attachments on utility poles, it shall be calculated in the following manner:

1. –8. (No change.)

(b) – (e) (No change.)

### 14:18-2.10 Rate changes and disputes

(a) In the event of a dispute over pole attachment or conduit rental rates, any party to a pole attachment agreement under N.J.A.C. 14:18-2.9 or conduit rental under N.J.A.C. 14:18-2.11 may petition the Board for a resolution of such dispute by filing a petition with supporting documentation in accordance with N.J.A.C. 14:17-6.1 through 6.5.

(b) In the event of a dispute over terms and conditions, any party to a pole

(a) A company that engages in the provision of cable television or telecommunications services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an equal amount to the pole attachment rate for which such company would be liable.

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(b) The costs of modifying a pole, conduit, duct or right-of-way facility shall be borne by all parties that obtain access to the facility as a result of the modification and by all parties that directly benefit from the modification. Each such party shall share proportionately in the cost of the modification. A party with a preexisting attachment to the modified facility shall be deemed to directly benefit from a modification if, after receiving notification of the modification, it adds to or modifies its attachment. However, a party with a preexisting attachment to a pole, conduit, duct or right-of-way facility shall not be required to bear any cost of rearranging or replacing its attachment if such rearrangement or replacement is necessitated solely as a result of an additional attachment or of the modification of an existing attachment sought by another party. If a party makes an attachment to the facility after the completion of the modification, such party shall share proportionately in the cost of the modification if such modification rendered possible the added attachment.

### SUBCHAPTER 3. CUSTOMER RIGHTS

#### 14:18-3.2 Requests for service

(a) (No change.)

(b) Within 20 days of ordering service, a [subscriber] customer is entitled to one of the following:

1. - 3. (No change.)

(c) In the event that a cable television operator cannot comply with (b) above, the cable television operator shall provide to the [subscriber] customer an explanation of why service cannot be provided within such time.

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(d) (No change.)

(e) A cable television company may not refuse to connect with any customer following a directive to do so by the Office, unless the cable television company can demonstrate that such a connection will present a hazard to life or property or is to likely to produce disturbing effects on the service of the cable television company or other customers.

(f) If a cable television company refuses to connect with a potential customer, the cable television company must provide written notification to the potential customer and advise the customer of the right to appeal the cable television company's refusal decision with the Office.

#### 14:18-3.3 Customer information

(a) Each cable television company shall, upon request, furnish its [subscribers] customers with such information as is reasonable, in order that the customers may obtain safe, adequate, efficient and economical service.

(b) (No change.)

(c) The cable television operator shall provide prospective customers, and existing customers upon any changeover to a new type of equipment, with a written description of any auxiliary equipment necessary to receive cable television service, such as converters or remote control units, required for service with an explanation of how such equipment interfaces with [subscriber] customer owned equipment such as VCR's, remote control units, "cable ready" sets, etc.

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(d) Every new [subscriber] customer shall be provided with a complete copy of the cable television company's tariff containing all rates, terms, and conditions applicable to that type of [subscriber] customer, for example, residential, commercial, etc.

#### 14:18-3.4 Tariff information

(a) (No change.)

(b) The cable television company shall post a notice in a prominent location in its local business office that a complete copy of its tariff showing all rates, charges, and services [in a prominent location in its local business offices.] is available for inspection. The notice will specifically identify the location of the tariff, which shall be placed in a prominent location within the customer service area of the local business office.

(c) - (d) (No change.)

#### 14:18-3.5 Outage credit

(a) The cable television operator shall credit [subscribers] customers for outages, as defined in these rules, as follows:

1. In the event of an outage lasting [six] three or more hours, the cable television company shall make an appropriate credit on the [subscriber's] customer's bill.

2. The amount of credit shall be in one-day units, prorated on the basis of the [subscriber's] customer's monthly rate for each service not available.

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3. For outages which extend more than 24 hours, [subscribers] customers shall receive a credit for each calendar day or part thereof if greater than [six] three hours, during which service is out.

4. The cable television company shall not be liable to a [subscriber] customer for any indirect or consequential damages resulting from the outage unless the cable television company expressly agrees to such liability.

5. In order to obtain a credit, [subscribers] customers must notify the cable television company by phone or in writing within 30 days after any such outage, or else within 30 days notify the Office or other designated complaint officer. However, in instances where an outage lasting three or more hours affects 10 or more of the cable television operator's customers, an automatic credit shall be issued to all affected customers and will not require notification by the customer.

6. A cable television company may, at its option, provide a [subscriber] customer with a rebate rather than a credit on the [subscriber's] customer's bill to fulfill the requirements of this subsection.

(b) A cable television company shall not be required to provide a credit or rebate under (a) above if:

1. The cable television company can demonstrate that restoration of service was not possible within the [six-] three-hour period due to factors beyond the reasonable control of their company; and

2. If service is restored within [six] three hours after the restoration of service becomes possible.

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(c) Any cable television company may petition the Board for a waiver of providing credit required by (a) above in the event it can clearly demonstrate that such credits would create an undue hardship on the cable television company.

(d) In instances where a [subscriber] customer is without cable television service for at least 24 hours, and the loss of the service is not the result of an outage, the cable television company shall credit or rebate, at the cable television company's option, the [subscriber] customer for one day unit for each 24-hour period in which the [subscriber] customer was without service. No cable television company shall be required to provide a [subscriber] customer with a rebate or credit if the loss of service was caused by an act on the part of the [subscriber] customer requesting such a credit or rebate.

(e) (No change.)

(f) Each cable television company shall quarterly inform its [subscribers] customers of the procedures by which a [subscriber] customer may obtain a credit.

#### 14:18-3.6 Access to company representatives

[Subscriber] Customer phone calls shall be answered by a representative or agent of the cable television company 24 hours a day. Such representative or agent shall be able to contact appropriate personnel of the cable television company in the event an emergency situation exists. If used by the cable system, an Automatic Response Unit (ARU) must allow an escape option by which a [subscriber] customer can speak to the next available operator.

#### 14:18-3.7 Bills for service; form of bill

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(a) All bills shall show the following:

1. – 2. (No change.)

3. Identification of each component for all service packages and the rate for each component;

[3] 4. (No change in text.)

[4] 5. No change in text.)

[5] 6. (No change in text.)

[6] 7. (No change in text.)

[7] 8. (No change in text.)

[8] 9. (No change in text.)

[9] 10. (No change in text.)

[10] 11. (No change in text.)

[11] 12. (No change in text.)

(b) Each cable television company shall adopt some method of informing its [subscribers] customers as to the address of an office where complaints, service inquiries and bill payments will be received.

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(c) Each cable television company shall keep a record of each [subscriber's] ~~customer's~~ account in such a manner as will permit computation of the bill for any billing period occurring within three years.

(d) – (e) (No change.)

#### 14:18-3.8 Method of billing

(a) - (c) (No change.)

(d) If a cable television company electronically disconnects or otherwise curtails, interrupts or discontinues all or a portion of the customer's services for non-payment of a valid bill or for other reasons provided under N.J.A.C. 14:18-4.3, the cable television company shall prorate the charges for all affected services as of the date of the electronic service curtailment, interruption or disconnection.

#### 14:18-3.9 Due date of payment and notice of discontinuance

(a) The specified due date of payment shall be no less than 15 days from the start of the billing cycle [date] of the bill.

(b) Prior to disconnection for non-payment, a [subscriber] ~~customer~~ must receive 15 days' written notice from the cable television company. Such notice must be mailed separately and not as part of the periodic bill. Such notice shall not be issued until 15 days beyond the due date on the previous bill.

(c) (No change.)

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(d) If a cable television company issues a notice of discontinuance, but fails to act upon it within 30 days of issuance, a new notice shall be served prior to service suspension.

[(d)] ~~(e)~~ In case of fraud, illegal use or when it is clearly indicated the [subscriber] customer is preparing to leave, immediate payment of accounts may be required.

[(e)] ~~(f)~~ A [subscriber] customer wishing to discontinue service must give notice to that effect. Where such notice is not received by the cable television company, the [subscriber] customer shall be liable for service until such notice is received by the cable television company.

[(f)] ~~(g)~~ Notice to discontinue service will not relieve a [subscriber] customer from any minimum or guaranteed payment under any contract or rate.

#### 14:18-3.10 Basis for restoration of discontinued services

Service shall be restored upon proper application when the conditions under which such service was discontinued are corrected, and upon the payment of all proper charges due from the [subscriber] customer provided in the tariff of the cable television company if the Office so directed when a complaint involving such matter is pending before it.

#### 14:18-3.11 Disputes

(a) A cable television company shall not discontinue service because of nonpayment of bills in cases where a charge or service is in dispute, provided a request is made to the Office by the customer for an investigation of the disputed

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charge or service, and, in the case of a disputed bill, the undisputed charges are paid to the cable television company and a check in the amount of the disputed charges is placed with an escrow agent designated by the Office.

(b) In such cases, the cable television company shall notify the [subscriber] customer that unless steps are taken to invoke formal or informal action by the Office within five days, service will be discontinued for nonpayment.

#### 14:18-3.12 Service call scheduling

(a) When a service call is scheduled to a [subscriber's] customer's home, the cable television operator shall inform the [subscriber] customer upon request whether the service call is scheduled for morning, afternoon, or, if provided, evening. The "appointment window" alternatives for installations, service calls, and other activities will be either a specified time or, at a maximum, a four-hour time block during normal business hours. The cable television operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

(b) If the cable television operator is unable to keep the scheduled appointment, the cable television operator shall inform the [subscriber] customer and the appointment shall be rescheduled as necessary within 24 hours, [unless good cause is shown.] or at a time which is convenient for the customer.

(c) Under normal operating conditions, a cable television operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

[(c)] (d) (No change in text.)

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#### 14:18-3.13 Prompt restoration standards

(a) All cable television operators shall dispatch personnel to begin corrective action within two hours of notification of any total loss of service affecting five or more contiguous [subscribers] customers within the cable system.

(b) - (c) (No change.)

(d) All cable television operators shall dispatch personnel to begin corrective action as promptly as possible to any service interruptions or service deficiencies within the reasonable control of the cable television operator and affecting the cable distribution plant, which interrupt one or more programming services to [subscribers] customers.

(e) For purposes of this rule, contiguous [subscribers] customers are those [subscribers] customers residing on the same streets or in the same neighborhood or geographic area of the system.

#### 14:18-3.14 Availability of special equipment

(a) The cable television operator shall provide, upon the request of the [subscriber] customer, the following equipment:

1. A parental lock to allow [subscriber] customer blocking of a specified cable service or channel as required by 47 U.S.C. § 544(d)(2); and

2. (No change.)

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(b) The cable television operator may impose fees to the [subscriber] customer for any equipment listed in (a)2 above, which shall not exceed the purchase cost [plus overhead].

#### 14:18-3.15 Trial and promotional services

(a) [Subscribers] Customers who affirmatively agree to take a trial or promotional service offering marketed by the cable television operator for a specified [trial] period on a free or reduced rate basis shall not be charged for the disconnection or downgrade of the service provided the [subscriber] customer notifies the cable television operator prior to the end of the trial or promotional period that they no longer want the service.

(b) Cable television operators shall maintain records of all such trial services for [public] inspection by the Office for a period of one year, and shall provide notice to the Office at least 30 days prior to the offering of such trial services clearly outlining the terms and scope of the offering.

(c) Cable television operators shall maintain records of all promotional service offerings for public inspection for a period of one year clearly outlining the terms and scope of the offering.

#### 14:18-3.16 Notice of rate change

(a) If the rates and charges of a cable television operator are not subject to prior approval by the Board:

1. A cable television company implementing a change in its rates shall file with the Office revised tariff sheets reflecting any rate changes where there

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is an increase in rates at least 30 days prior to the effective date. Rate decreases shall require advanced notification to the Office.

2. Each cable television company shall individually notify, in writing, its [subscribers] customers and affected municipalities of a rate change where there is a rate increase at least 30 days prior to the effective date, with a simultaneous copy of the notice to the Office. Rate decreases shall require advanced notification to the customers and affected municipalities.

3. (No change.)

[(b) Cable television operators may be issued a waiver for any notification provision pursuant to this requirement in the instance of rate decrease. In no instance will a waiver of timely compliance be issued for a rate increase.]

14:18-3.17 Notice of alteration in channel allocation

(a) (No change.)

(b) Each cable television company shall notify its [subscribers] customers and affected municipalities of an alteration in channel allocation prior to the effective date for new additions which do not require rate changes, deletions or cutbacks in other services. For all other changes, the cable television operator shall provide notice to the Office at least 30 days prior to the effective date and 30 days prior to the effective date to the [subscribers] customers in a manner reasonably calculated to provide such information.

(c) The Office may relax the time for providing notification upon a showing by the cable television operator that the cable television operator has acted to

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provide the required notice at the earliest possible date and:

1. - 3. (No change.)

4. A substantial benefit to [subscribers] customers would be irretrievably lost.

14:18-3.18 Periodic notices to [subscribers] customers

(a) Each cable television operator shall provide annual notice to each [subscriber] customer of the following:

1. Notice of all monthly service packages and corresponding rates available according to the [subscriber's] customer's billing classification (for example, residential, commercial, hotel/motel);

2. – 6. (No change.)

(b) Each cable television operator shall provide quarterly notice to each [subscriber] customer of the following:

1. - 2. (No change.)

(c) (No change.)

14:18-3.19 Interest on uncorrected billing errors

(a) (No change.)

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(b) The interest rate shall be equal to the [average yields on six month Treasury Bills for the 12-month period ending each September 30. Said rate shall become effective on January 1 of the following year.] the IRS rates for over and underpayments utilized by the FCC at 47 C.F.R. § 76.942(e), incorporated herein by reference , compounded daily through the date of distribution.

[(c) The Board annually shall perform calculation to determine the applicable interest rate and shall notify the cable television companies of said rate.]

#### 14:18-3.20 Discounts for senior and disabled citizens

(a) Prior to offering a senior and disabled citizen discount, a cable television company shall

1. (No change.)

2. Provide notice prior to the effective date to each [subscriber] customer and municipality served; and

3. (No change.)

(b) Prior to altering or discontinuing a senior and disabled citizen discount, a cable television company shall:

1. Provide at least 30 days advance notice prior to the effective date to each [subscriber] customer and municipality served; and

2. (No change.)

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(c) New [subscribers] customer shall be informed in writing when a senior and disabled citizens discount program is available and the eligibility requirements for participation.

(d) [Subscribers] Customers shall establish eligibility for this discount program by either:

1. Presenting a Pharmaceutical Assistance card and certifying that the [subscriber] customer is at least 62 years of age and that no more than one other person under the age of 62 resides in the same dwelling unit; or

2. Executing and notarizing a standard form of affidavit stating:

i. The [subscriber's] customer's name and that he or she is at least 62 years of age;

ii. The [subscriber's] customer's address and that he or she has been a permanent resident of this State for at least 30 days;

iii. (No change.)

iv. That the [subscriber] customer is:

(1) – (3) (No change.)

(e) Participation in a senior and disabled citizens discount plan shall not affect a [subscriber's] customer's eligibility for other generally offered discounts and marketing promotions.

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#### 14:18-3.22 Notice of planned interruptions

Planned interruptions for operating reasons shall always be preceded by reasonable notice, preferably on a locally originated channel, to all affected [subscribers] customers, and the work shall be planned to minimize [subscriber's] customer's inconvenience.

#### 14:18-3.23 Reimbursement for lost, stolen or damaged equipment

(a) The cost charged to [subscribers] customers by cable television operators to replace lost or stolen converters or other auxiliary equipment shall be in an amount not to exceed the actual cost or the cable television operator's replacement cost, whichever is greater, of the equipment at the time the equipment was installed in the [subscriber's] customer's home.

(b) The cost charged to [subscribers] customers by cable television operators for damaged equipment shall not exceed the reasonable repair costs or actual replacement cost, whichever is lesser.

(c) A cable television company shall not charge a [subscriber] customer for any damage to converters or other auxiliary equipment which may have resulted from the design, operation or maintenance of the equipment or from normal wear and tear.

(d) In the event the cable television company seeks to impose a charge for a [subscriber] customer pursuant to this section, the cable television company shall give written notice to the [subscriber] customer of the amount sought and the reasons for the charge. The [subscriber] customer shall also be notified of the opportunity to refer the matter to the Office of Cable Television or the appropriate

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complaint officer pursuant to N.J.S.A. 48:5A-26.

(e) Cable television operators shall provide written notification to all new [subscribers and subscribers] customers and customers receiving new or additional equipment of the rights and obligations of this section.

(f) (No change.)

#### 14:18-3.24 Late fees and charges

(a) In the event a cable television operator imposes an additional fee or charge or penalty to a [subscriber] customer for billing balances which are considered past due or late, the cable television operator shall clearly specify the amount of the fee, charge or penalty on the [subscriber] customer bill. The cable television company shall also specify the method of calculation of the fee, charge or penalty on the bill.

(b) (No change.)

#### 14:18-3.25 Refunds and credits

(a) Where a customer is due a refund, refund checks will be issued promptly, but no later than either:

1. The customer's next billing cycle following the resolution of the issue giving cause for the rebate, or 30 days whichever is earlier or;

2. The return of the equipment supplied by the cable television operator if service is terminated.

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(b) Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

#### 14:18-3.26 Pre-termination access to cable home wiring

(a) Prior to termination of service, a customer may: install or provide for the installation of their own cable home wiring, or connect additional home wiring, splitters or other equipment within their premises to the wiring owned by the cable television operator, so long as no electronic or physical harm is caused to the cable television system and the physical integrity of the cable television operator's wiring remains intact.

(b) Cable television operators may require that home wiring (including passive splitters, connectors and other equipment used in the installation of home wiring) meets reasonable technical specifications, not to exceed the technical specifications of such equipment installed by the cable television operator; provided however, that if electronic or physical harm is caused to the cable television system, the cable television operator may impose additional technical specifications to eliminate such harm. To the extent a customer's installation or rearrangement of wiring degrades the signal quality of or interferes with other customers' signals or causes electronic or physical harm to the cable television system, the cable television operator may discontinue service to that customer until such degradation or interference is resolved.

(c) Customers shall not physically cut, substantially alter, improperly terminate or otherwise destroy cable television operator owned home wiring.

#### **SUBCHAPTER 4. CABLE TELEVISION OPERATOR RIGHTS**

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#### 14:18-4.2 Refusal to connect

A cable television company may refuse to connect with any customer's installation when it is not in accordance with the standard terms and conditions of the tariff schedules of the cable television company furnishing the service which have been filed with the Office, and with the provisions of applicable governmental requirements.

#### 14:18-4.3 Basis of discontinuance of service

(a) The cable television company shall, upon reasonable notice when it can be reasonably given, have the right to suspend or curtail or discontinue service for the following reasons:

1. - 2. (No change.)

3. For any of the following acts or omissions on the part of the [subscriber] customer:

i. – ii. (No change.)

iii. Fraudulent representation in relation to the use of the service within the [subscriber's] customer's premises;

iv. [Subscriber] Customer moving from the premises, unless the [subscriber] customer requests that service be continued;

v. - vii. (No change.)

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viii. Connecting and operating in such manner as to produce disturbing effects on the service of the cable television company or other [subscribers] customers;

ix. Failure of the [subscriber] customer to comply with any reasonable standard terms and conditions contained in the cable television company's tariff;

x. Where the condition of the [subscriber's] customer's installation presents a hazard to life or property;

xi. Failure of [subscriber] customer to repair any faulty television or FM receiver or other cable television receiving facility belonging to the [subscriber] customer.

4. For refusal of reasonable access to [subscriber's] customer's premises for necessary purposes in connection with rendering of service, including the proper and legal maintenance or removal of the cable television company's property.

(b) A [subscriber] customer wishing to discontinue service must give notice to that effect. Where such notice is not received by the cable television company, the [subscriber] customer shall be liable for service until such notice is received by the cable television company.

#### 14:18-4.4 Access to customer's premises

(a) The cable television company shall have the right of reasonable access

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to [subscriber's] customer's premises, and to all property furnished the cable television company at all reasonable times for the purpose of inspection of premises incident to the installation of service, inspecting, testing or repairing its facilities used in connection with supplying the service or for the removal of its property.

(b) The [subscriber] customer shall obtain, or cause to be obtained, all permits needed by the cable television company for access to the cable television company's facilities at the [subscriber's] customer terminal.

(c) - (d) (No change.)

14:18-4.5 Compensation for taking because of installation of cable television facilities

(a) - (g) (No change.)

14:18-4.6 Deposits to insure credit

(a) Where the credit of a [subscriber] customer is not established or where a [subscriber] customer is in default in the payment of bills, the cable television company may require a reasonable deposit as a condition of supplying service or continuing service.

(b) - (e) (No change.)

(f) Simple interest, at the prevailing rate determined pursuant to N.J.A.C. 14:18-3.19, shall be paid by the cable television company on all credit deposits held by it, provided the deposit has remained with the cable television company for at

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least six months. Moneys collected as deposits, pursuant to this section, shall be held in a separate account and shall not be used for any purpose other than the maintenance of [subscriber] customer accounts.

(g) Where a [subscriber] customer is in default in the payment of bills, service shall not be discontinued for failure to make such deposit except after proper notice, in accordance with N.J.A.C. 14:18-3.9(b).

(h) If a [subscriber] customer who has made a deposit fails to pay a bill, the cable television company may apply such deposit insofar as is necessary to liquidate the bill and may require that the deposit be restored to its original amount.

#### 14:18-4.7 Deposits on auxiliary equipment

(a) When a cable television company supplies auxiliary equipment, such as a converter or other modifying device, to a [subscriber's] customer's cable television receiving facility, the cable television company may require the payment of a reasonable deposit thereon, provided, however, that said deposit shall not exceed the replacement cost of the unit(s).

(b) (No change.)

(c) If the cable television company is required to replace or repair the unit(s) because of [subscriber] customer abuse, the cable television company may apply such deposit insofar as is necessary and may require that the deposit be restored to its original amount.

#### 14:18-4.8 Receipts and records

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(a) The cable television company shall furnish a receipt to each [subscriber] customer who has made a deposit.

(b) (No change.)

#### 14:18-4.9 Return of deposits

(a) (No change.)

(b) With reference to N.J.A.C. 14:18-4.6, Deposits to insure credit, each cable television company shall review a [subscriber's] customer's account at least once every two years, and if such review indicates that the [subscriber] customer has established credit satisfactory to the cable television company, then the outstanding deposit shall be refunded to the [subscriber] customer.

(c) With reference to N.J.A.C. 14:18-4.7, Deposits on auxiliary equipment, the amount of deposit shall be refunded to the [subscriber] customer upon termination of service and return of the unit(s) in good condition, reasonable wear and tear excepted. If any portion of the deposit is required to offset the cost of replacement or repair necessitated by customer abuse to such unit(s), the difference between such cost and the amount of deposit shall be refunded to the [subscriber] customer.

#### 14:18-4.10 Consolidated notice

All notices required by N.J.A.C. 14:18-3.18(a) or (b) may be provided to [subscribers] customers in a single annual or quarterly notice, respectively, to each [subscriber] customer as long as all required information for each item is included.

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#### 14:18-4.11 Disposition of cable home wiring

(a) The following applies to all individual customer's home wiring:

1. Upon voluntary termination of cable television service by a customer in a single unit installation, a cable television operator shall not remove the cable home wiring unless it gives the customer the opportunity to purchase the wiring at the replacement cost, and the customer declines. If the customer declines to purchase the cable home wiring, the cable television system operator must then remove the cable home wiring within seven days of the customer's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

2. Upon voluntary termination of cable television service by an individual customer in a multiple-unit installation, a cable television operator shall not be entitled to remove the cable home wiring unless: it gives the customer the opportunity to purchase the wiring at the replacement cost; the customer declines, and neither the MDU owner nor an alternative MVPD, where permitted by the MDU owner, has provided reasonable advance notice to the incumbent provider that it would purchase the cable home wiring pursuant to this section if and when a customer declines. If the cable television system operator is entitled to remove the cable home wiring, it must then remove the wiring within seven days of the customer's decision, under normal operating conditions, or make no subsequent attempt to remove it or to restrict its use.

3. The cost of the cable home wiring is to be based on the replacement cost per foot of the wiring on the customer's side of the demarcation point multiplied by the length in feet of such wiring, and the replacement cost of any splitters or other passive equipment located on the customer's side of the

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demarcation point.

(b) During the initial telephone call in which a customer contacts a cable television operator to voluntarily terminate cable television service, the cable television operator -- if it owns and intends to remove the home wiring -- must inform the customer:

1. That the cable television operator owns the home wiring;

2. That the cable television operator intends to remove the home wiring;

3. That the customer has the right to purchase the home wiring; and

4. What the per-foot replacement cost and total charge for the wiring would be (the total charge may be based on either the actual length of cable television wiring and the actual number of passive splitters on the customer's side of the demarcation point, or a reasonable approximation thereof; in either event, the information necessary for calculating the total charge must be available for use during the initial phone call).

(c) If the customer voluntarily terminates cable television service in person, the procedures set forth in paragraph (b) of this section apply.

(d) If the customer requests termination of cable television service in writing, it is the operator's responsibility -- if it wishes to remove the wiring -- to make reasonable efforts to contact the customer prior to the date of service termination and follow the procedures set forth in paragraph (b) of this section.

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(e) If the cable television operator fails to adhere to the procedures described in paragraph (b) of this section, it will be deemed to have relinquished immediately any and all ownership interests in the home wiring; thus, the operator will not be entitled to compensation for the wiring and shall make no subsequent attempt to remove it or restrict its use.

(f) If the cable television operator adheres to the procedures described in paragraph (b) of this section, and, at that point, the customer agrees to purchase the wiring, constructive ownership over the home wiring will transfer to the customer immediately, and the customer will be permitted to authorize a competing service provider to connect with and use the home wiring.

(g) If the cable television operator adheres to the procedures described in paragraph (b) of this section, and the customer asks for more time to make a decision regarding whether to purchase the home wiring, the seven day period described in paragraph (b) of this section will not begin running until the customer declines to purchase the wiring; in addition, the customer may not use the wiring to connect to an alternative service provider until the customer notifies the operator whether or not the customer wishes to purchase the wiring.

(h) If an alternative video programming service provider connects its wiring to the home wiring before the incumbent cable television operator has terminated service and has capped off its line to prevent signal leakage, the alternative video programming service provider shall be responsible for ensuring that the incumbent's wiring is properly capped off in accordance with the FCC's signal leakage requirements as set forth in Subpart K (technical standards) of the FCC's Cable Television Service rules (47 CFR §§76.605(a)(13) and 76.610 through 76.617).

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(i) Where the customer terminates cable television service but will not be using the home wiring to receive another alternative video programming service, the cable television operator shall properly cap off its own line in accordance with the Commission's signal leakage requirements.

(j) Cable television operators are prohibited from using any ownership interests they may have in property located on the customer's side of the demarcation point, such as molding or conduit, to prevent, impede, or in any way interfere with, a customer's right to use his or her home wiring to receive an alternative service. In addition, incumbent cable television operators must take reasonable steps within their control to ensure that an alternative service provider has access to the home wiring at the demarcation point. Cable television operators and alternative multichannel video programming delivery service providers are required to minimize the potential for signal leakage in accordance with FCC guidelines set forth in 47 CFR §§76.605(a)(13) and 76.610 through 76.617, theft of service and unnecessary disruption of the consumer's premises.

(l) These provisions, except for paragraph (a)1 of this section, shall apply to all MVPDs in the same manner that they apply to cable television operators.

#### 14:18-4.12 Home run wiring in MDU settings

(a) Home run wiring where an MDU owner has an ownership interest.

(1) Where an MDU owner has an ownership interest in the home run wiring utilized by the incumbent franchised cable operator, and the MDU owner desires to utilize the home run wiring for services to be provided by an alternate MVPD, it is the MDU owner's responsibility to ensure that any actions taken to gain control of the home run wiring are consistent with the mandatory access rights

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granted to the cable television operator under N.J.S.A 48:5A-49, N.J.S.A. 48:5A-51, and N.J.A.C. 14:18-4.5. Pursuant to these sections, no MDU owner may terminate access to existing home run wiring in which it has an ownership interest without proper notice to the incumbent franchised cable television operator and without affording the incumbent cable television operator an opportunity to replace existing home run wiring in the MDU.

(2) No MDU owner or agent of an MDU owner shall deny any tenant of a dwelling under its control access to the services of a franchised cable television operator, nor otherwise abridge the rights or discriminate against any such tenant receiving cable television service; in accordance with the provisions of N.J.S.A. 48:5A-49 and any other relevant rule or statute now in effect or hereinafter enacted.

(b) Home run wiring where an MDU owner does not have an ownership interest.

(1) Where an MDU owner does not have an ownership interest in the home run wiring utilized by the incumbent franchised cable television operator, the MDU owner is prohibited from entering into any contracts with an alternate MVPD to remove, alter, modify, disrupt or share the incumbent franchised cable television operator's home run wiring to provide service without the written consent of the cable television operator.

(2) Cable television operators are required to respond to written inquiries from MDU owners regarding the status and proposed use of existing home run wiring within 30 days of receipt by the cable television operator. The cable television operator's response shall include a full explanation of its position, supported by appropriate contractual and legal documentation in accordance with

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state and federal law.

(c) In no event shall the actions taken by any party in accordance with this section disrupt existing service to cable television customers.

(d) The rules regarding the disposition of cable home wiring will continue to apply to the wiring on the customer's side of the cable demarcation point.

(e) After the effective date of this rule, franchised cable television operators shall include a provision in all service contracts entered into with MDU owners setting forth the disposition of any home run wiring in the MDU upon the termination of the contract.

(1) Incumbent cable television providers are prohibited from using any ownership interest they may have in property located on or near the home run wiring, such as molding or conduit, to prevent, impede, or in any way interfere with, the ability of an alternative MVPD to provide service to an MDU. This paragraph shall not apply where the incumbent franchised cable television operator possesses a contractual right to maintain its molding on the premises without alteration by the MDU owner.

#### 14:18-4.13 Access to molding

(a) An MVPD shall be permitted to install one or more home run wires within the existing molding of an MDU where the MDU owner finds that there is sufficient space to permit the installation of the additional wiring without interfering with the ability of an existing franchised cable television operator to provide service, and gives its affirmative consent to such installation. This paragraph shall not apply where the incumbent provider has an exclusive contractual right to occupy the

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molding.

(b) If an MDU owner finds that there is insufficient space in existing molding to permit the installation of the new wiring without interfering with the ability of an existing franchised cable television operator to provide service, but gives its affirmative consent to the installation of larger molding and additional wiring, the MDU owner (with or without the assistance of the incumbent and/or the alternative provider) shall be permitted to remove the existing molding, return such molding to the incumbent, if appropriate, and install additional wiring and larger molding in order to contain the additional wiring. This paragraph shall not apply where the incumbent franchised cable television operator possesses a contractual right to maintain its molding on the premises without alteration by the MDU owner.

(c) The alternative provider shall be required to pay any and all installation costs associated with the implementation of paragraphs (a) or (b) of this section, including the costs of restoring the MDU owner's property to its original condition, and the costs of repairing any damage to the incumbent franchised cable television operator's wiring or other property.

## SUBCHAPTER 5. OFFICES

### 14:18-5.1 Location and closing

(a) (No change.)

(b) Each cable television company shall furnish the Office with the current location of its offices where maps and records showing the various services areas and facilities are available to supply, upon reasonable request, information to [subscribers] customers, governmental bodies, utilities, other cable television

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companies and contractors.

(c) At least 60 days prior to the closing or relocation of an office described in (a) or (b) above, a cable television company shall file a petition for approval with the Board demonstrating such closure or relocation is not unreasonable, will not unduly prejudice the public interest, and setting forth the means upon Board approval of the petition, by which customers and other interested parties will be adequately notified of the closing or relocation and alternatives available in the case of a closed office. The cable television company shall simultaneously notify its customers and the clerk of each affected municipality of the pending application for permission to relocate or close the subject office by means of posting notice at the office location and, within three days of filing the petition, by placing notice of the office closing or relocation in the newspaper(s) serving the affected area. Said notice shall inform customers of the Office's toll free number and their right to present to the Board, in writing, any objections they may have to the office closure or relocation. The notice shall specify a date certain for submission of comments which date shall not be less than 20 or more than 30 days after publication and posting. Such office shall not be closed or relocated until the cable television company has been informed, in writing, that the Board has approved such request.

[(d) Cable television companies are required to maintain and provide toll free or local exchange telephone numbers for use by the general public and subscribers affected by an office closing or relocation for billing, service and sales inquiries. This toll free number or local exchange number shall be posted on any notice at the office location as well as in the notice placed in the newspaper(s), pursuant to (c) above, serving the affected area.]

## SUBCHAPTER 6. RECORDS

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#### 14:18-6.3 Accidents or injury to personnel

Each cable television company shall keep a record of, and report to the Office, all serious accidents[/ ~~resulting in injury or death~~] to personnel involving the operation or maintenance of its system on forms prescribed and furnished by the Office in addition to providing a detailed narrative explaining the cause of the accident [or] ~~resulting in injury or death~~, any corrective action taken, as well as copies of police reports generated as a result of the accident [or] ~~resulting in injury or death~~.

#### 14:18-6.5 Complaints records

Each cable television company shall keep for a period of one year, a record of complaints in regard to service received at its office or offices, which shall include the name and address of the [subscriber] ~~customer~~, the date, the nature of complaint, the test conducted and corrective action taken if required, and the final disposition. The record shall be available for inspection by the Office staff. Copies of such record shall be provided to the Office staff upon request.

#### 14:18-6.6 Reporting and records of interruptions and outages

(a) All outages where service to [subscribers] ~~customers~~ is interrupted for at least six hours and which affect 50 or more [subscribers] ~~customers~~ shall be reported by each cable television company to the Office on a form prescribed by the Director.

1. (No change.)

2. Cable television companies must report to the Office by telephone

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during the course of the outage all outages which exceed one hour in length and affect more than 500 [subscribers] customers.

(b) (No change).

(c) Each cable television company shall keep a record of each outage for a period of one year showing location, duration and estimated number of [subscribers] customers affected.

(d) Each cable television company shall notify the appropriate Office personnel by telephone in the event of an outage, emergency or other significant occurrence affecting its system or personnel during other than normal work-hours. Notification shall be in accordance with the procedure established by the Office, as provided to each cable television company which provides that each cable television operator speak directly with a representative of the Office in the event of an interruption of service that last four hours or more, that affects 50% of customers where the system serves less than 20,000 customers, or affects 10,000 or more customers where the system serves 20,000 customers or more, or in the event of serious injury resulting in hospitalization or death to any person as a result of the cable television company's operations.

## SUBCHAPTER 7. REPORTS AND FILINGS

### 14:18-7.1 Periodic reports

(a) (No change.)

(b) Each cable television company shall file with the Office on or before March 31 of each year a summary of its finances and operations for the preceding

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calendar year on forms prescribed and furnished by the Office.

(c) (No change.)

#### 14:18-7.2 Special reports

[(a)] (No change in text.)

[(b) Cable television companies shall promptly report to the Office details of all accidents involving a death or serious injury.]

#### 14:18-7.4 Notification of system rebuilds, upgrades, hub and headend relocations

(a) (No change.)

#### 14:18-7.5 Written procedures for use of public, educational and governmental access channels

(a) (No change.)

(b) - (c) (No change.)

(d) ~~A prominent notice of the availability of these~~ [These] guidelines shall be posted and ~~the guidelines shall be available for public inspection~~ at local business offices and studios in the cable system.

(e) (No change.)

#### 14:18-7.6 Telephone system information

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(a) Each cable television operator shall provide the Office of Cable Television the following information concerning the operation of the cable television company's telephone system:

1. The location of each office at which telephone calls from [subscribers] customers and the general public are normally received and the number of [subscribers] customers served by the office;

2. (No change.)

3. The telephone numbers by which [subscribers] customers may call the cable television operator;

4. The method by which [subscribers] customers are informed of the telephone number(s) used to contact the cable television operator;

5. Whether [subscribers] customers are requested to dial a single telephone or separate numbers depending on the nature of their inquiry;

6. – 21. (No change.)

(b) - (c) (No change.)

#### 14:18-7.7 Telephone system performance

(a) (No change.)

(b) The data requested by (a) above shall be provided [for the calendar

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months of January, March, May, July, September and November] quarterly, on a calendar year basis, and shall be accompanied by a certification from the system manager or other appropriate system personnel that the information is correct.

(c) Reports of the information required by (a) above shall be filed by the cable television operator within 10 days of the end of the [month] quarter for which the report is filed. The data shall be submitted in a summary format, on forms prescribed by the Director.

(d) - (g) (No change.)

#### 14:18-7.8 Telephone customer service

(a) Each cable television operator is subject to the following customer service standards concerning cable television system telephone availability:

1. The cable television operator shall maintain a local, toll-free or collect telephone access line which will be available to its customers 24 hours a day, seven days a week.

i. Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

ii. After normal business hours, the access line may be answered by a service or automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

2. Under normal operating conditions, telephone answer time by a

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customer service representative, including wait time, shall not exceed 30 seconds from when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions, measured on a quarterly basis.

3. Under normal operating conditions, the customer will receive a busy signal less than three percent of the time.

4. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(b) Nothing herein shall prohibit the cable television operator from exceeding the standards set forth in (a)1 through 4 above.

## SUBCHAPTER 9. TESTING OF SERVICE

### 14:18-9.2 Proof of performance

(a) (No change.)

(b) Copies of the semiannual proof-of-performance test results shall be filed with the Office [upon request.] during the months of March and September of each calendar year. [The filing of such reports by the cable television company shall be within five business days of a verbal or written request by staff of the Office.]

(c) (No change.)

## SUBCHAPTER 10. TECHNICAL STANDARDS FOR SYSTEM OPERATION

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14:18-10.3 Requirements for specialized NTSC video ~~or MPEGx~~ and non-video signals

(a) Every cable television operator providing locally originated television programming received from any origination source, shall make reasonable efforts to use good engineering practices in the processing of each programming signal to guard against any unnecessary degradation in the signal received and delivered to the [subscriber] customer.

(b) Every cable television operator providing non-video signals or data transmission for testing, encoding, decoding or addressing purposes, shall use good engineering practices in transmitting the signal without material degradation or objectionable interference to any channel delivered to the [subscriber] customer.

SUBCHAPTER 11. APPLICATION BY CABLE TELEVISION COMPANIES FOR MUNICIPAL CONSENT

14:18-11.1 Application for municipal consent; who may apply

(a) Any person may apply to any municipality in the State of New Jersey for the issuance of a municipal consent for the operation of a cable television system by submitting, in triplicate, an application to the clerk of that municipality. [One] Three additional [copy] copies of the application shall be filed with the Office within three days after the municipal filing.

(b) (No change.)

14:18-11.2 Application for municipal consent to operate a cable television system

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(a) Every application for a consent shall be submitted on a standard form supplied by the Office, which form shall include, but not be limited to, the following information:

1. - 3. (No change.)

4. System design and construction timetable:

i. The system design concept contemplated, indicating initial construction proposed and the development and extension of the system within the franchise boundaries. The total signals to be carried in terms of auxiliary equipment to be provided to [subscribers] customers. Two-way capability of proposed system;

ii. (No change.)

5. - 8. (No change.)

14:18-11.5 Ex parte communications; prohibitions

~~Where there are two or more initial applicants, [No]~~ no member of the municipal governing body may communicate ex parte by telephone or otherwise, or meet with any one applicant concerning any substantive matter contained in the application on file without first notifying all other applicants of such meeting or communication. Nothing herein shall prohibit communication, without notice, concerning procedural matters associated with the filing or hearing of an application.

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#### 14:18-11.13 Decision; time; contents

The municipal governing body shall, not later than 30 days from the date of the last hearing, make a decision as to whether to grant one or more of the applicants a municipal consent ordinance to operate a cable television system and shall issue a written report. A written report of that decision shall be filed promptly with the clerk of the municipality and with the Office of Cable Television. In addition to the decision itself, the report shall contain detailed and specific information as to the reason for the decision and shall have attached information concerning the municipality, governing body and hearing proceedings. The written report may be in the form of a draft ordinance or a resolution.

### SUBCHAPTER 12. APPLICATION FOR CERTIFICATE OF APPROVAL

#### 14:18-12.2 Information to accompany petition for certificate of approval

[(a)] At the time of filing of a petition for a certificate of approval, the applicant(s) shall file with the Office on standardized forms, where applicable, information including, but not necessarily limited to, [the following:] the information required under N.J.A.C. 14:18-11.2.

[1. System design:]

[i. Equipment to be used;]

[ii. Expected performance specifications of the system;]

[iii. Block diagram of system construction;]

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[2. Rates:]

[i. Installation charges for all services, other than cable television reception service, available to subscribers;]

[ii. Monthly charges for all the above services;]

[iii. Advertising rates;]

[iv. Leased channel rates;]

[v. Equipment or personnel used charges;]

[3. Financing:]

[i. Written evidences of commitments from persons who will provide funds, including parent and subsidiary companies, together with detailed terms and conditions of those commitments and any obligation which may affect the operation of the system;]

[ii. Copies of all contracts and/or leases pertaining to the proposed system.]

## SUBCHAPTER 13. RENEWALS

### 14:18-13.8 Compliance with Federal terms and conditions for sale

(a) In the event renewal of a certificate is denied, the Board shall act to minimize the disruption of service to [subscribers] customers.

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(b) - (d) (No change.)

## SUBCHAPTER 14. MISCELLANEOUS PROVISIONS

### 14:18-14.3 Tariffs

(a) (No change.)

(b) A cable television company's tariff shall not be construed to be in conflict with these regulations if said tariff provides for more beneficial treatment of [subscribers] customers than that provided for in these regulations.

### 14:18-14.7 Effective competition

(a) Upon a finding by the Board that the Federal Communications Commission has decertified rate regulation for any cable television system, pursuant to 47 C.F.R. § 76.915, on a final finding of effective competition, after April 17, 2000, the following provisions may no longer apply to that system:

1. – 7. (No change.)

[8. N.J.A.C. 14:18-7.6 Telephone system information; and]

[9. N.J.A.C. 14:18-7.7 Telephone system performance.]

## APPENDIX A

### LIST OF FORMS

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Form CATV-1

Form CATV-2

Form F99

Application for Cable Television Franchise

Channel Allocation Form

Cable Facts Questionnaire

Line Extension Policy Form

Outage Form

Accident/Injury Form